

Attachment B: Required Findings- Chapters 4, 60, & 80

Chapter 4 Threshold Findings

Finding 4.4.1.A:

The project is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, plan area statements and maps, the Code, and other TRPA plans and programs.

Rationale:

The project is located within the shorezone of Lake Tahoe where scientific study projects are listed as a special use. This project implements the Tahoe Keys Lagoons Aquatic Weed Control Methods Test project (EIP Project Numbers 01.03.01.0007 & 01.03.01.0008) included in the Lake Tahoe Environmental Improvement Program. As an EIP Project, the primary objective of the project is to implement a test of invasive aquatic weed control in portions of the Tahoe Keys lagoons, to inform the design of a future holistic control program once the test has been completed. The proposed test project will provide information on how to promote water quality, recreation and fisheries Threshold Standards consistent with the Goals and Policies of the Conservation Element and the Code of Ordinances.

The proposed project as conditioned in the draft permit (see Attachment C) is compliant with all provisions of the Regional Plan and will not adversely affect its implementation including all applicable goals and policies, local plans (i.e., plan area statements, community plans, and area plans) adopted for the purpose of implementing the Regional Plan and their maps, the TRPA Code, and other TRPA plans and programs (as amended).

Finding 4.4.1.B:

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

Rationale:

Based on the analysis in the Tahoe Keys Lagoons Aquatic Weed Control Methods Test EIS, implementation of the Tahoe Keys Lagoons Aquatic Weed Control Methods Test project would not cause the environmental threshold carrying capacities to be exceeded. The proposed test is designed to inform further attainment and maintenance of Threshold Standards by providing information on how to best control the largest infestation of invasive aquatic weeds. Removal of these species can improve water quality by reducing nutrient loads, formation of algal blooms, and organic sediments that result from continual die off of plants, all of which impact turbidity and clarity. Removal of these species will also improve fisheries by reducing habitat preferred by invasive fish species, replacing it with increased native habitat for native fish species.

Finding 4.4.1.C:

Wherever federal, state, or local air and water quality standards apply for the region, the strictest standards shall be attained, maintained, or exceeded pursuant to Article V (d) of the Tahoe Regional Planning Compact.

Rationale:

The Tahoe Keys Lagoons Aquatic Weed Control Methods Test project does not affect or change the federal, state, or local air and water quality standards applicable to the Region. As disclosed in the EIS (Section 3.1.1.3 Air Quality and Greenhouse Gas, Section 3.1.1.4 Hydrology, and Section 3.1.1.5 Water Quality), these standards were used as criteria of significance where applicable and no unmitigable air quality and water quality impacts were found. Although waters of the Tahoe Keys lagoons are understood to be out of attainment for turbidity standards generally, based on the Tahoe Keys Lagoons Aquatic Weed Control Methods Test EIS, no applicable federal, state or local air or water quality standard would be further exceeded with implementation of the Tahoe Keys Lagoons Aquatic Weed Control Methods Test project.

Lake Tahoe is designated as an Outstanding National Resource Water (ONRW) which carries an anti-degradation policy (40 CFR 131.12) which prohibits degradation of such ONRW waterbodies, but allows for short-term degradation of “weeks to months, not years.” As part of the NPDES permit issued by Lahontan, an anti-degradation analysis was included to confirm compliance with the policy. On January 13, 2022, the Lahontan Board approved the NPDES permit and associated analysis:

The permitted discharge is consistent with the antidegradation provisions of 40 C.F.R. section 131.12 and State Water Board Resolution No. 68-16. Due to the one-time nature, duration, effect, and low volume of discharge expected from the application of endothall, triclopyr, Rhodamine WT and lanthanum-modified clay regulated under this Order, water quality changes in the ONRW will be short-term and temporary, will not permanently degrade water quality, and will protect the existing uses in the ONRW. Therefore, the water quality of the ONRW is maintained and protected.

Finding 4.4.2:

In order to make the findings required by subparagraph 4.4.1, TRPA evaluated the proposed project pursuant to the provisions of subsection 4.4.2.

Rationale:

In making the findings required by subparagraph 4.4.1, TRPA evaluated the proposed project pursuant to the provisions of subsection 4.4.2 and found that it would not negatively impact a compliance measure, resource capacity, target date or interim target date, threshold, or Environmental Improvement Program (EIP) project.

Chapter 60 Water Quality- Pesticide Use Findings

Finding 60.1.7.B.3:

No detectable concentration of any pesticide shall be allowed to enter any stream environment zone, surface water, or ground water unless TRPA finds that application of the pesticide is necessary to attain or maintain the environmental threshold standards.

Rationale:

TRPA Threshold Standards as the relate to aquatic invasive species (AIS) aims to reduce the abundance and distribution of existing AIS. The Tahoe Keys represents the largest and most complex infestation and is the number one priority for control. Given the expanse, the sheer amount of biomass that has grown and proliferated over time, and the complexity (e.g., the variability of conditions throughout the lagoons of the Keys), no single method previously used in other areas of the lake to control AIS appears adequate for effectively treating the infestation in the Tahoe Keys. Therefore, a test of multiple methods both new and not fully proven, including aquatic herbicides (pesticides), in addition to previously used methods (e.g., bottom barriers and diver assisted suction) is necessary to inform what a holistic treatment program would include to improve environmental threshold standards.

Chapter 80 Shorezone Findings

Finding 80.3.2.A

The project will not adversely impact littoral processes, fish spawning habitat, backshore stability, or on-shore wildlife habitat, including waterfowl nesting areas.

Rationale:

The proposed test project is intended to test invasive aquatic plant treatment methods that would provide information to improve fish spawning habitat. The proposed test occurs entirely within the water of the Tahoe Keys Lagoons and will not impact littoral processes, backshore stability or on-shore wildlife habitat.

Finding 80.3.2.B

There are sufficient accessory facilities to accommodate the project.

Rationale:

The project is located within the shorezone of Lake Tahoe where scientific study projects are listed as a special use, and such scientific study is not required to be accessory to an approved upland use. The test project will require the use of vessels to perform most of the project activities. The nearby Tahoe Keys Marina or access ramps operated by TKPOA will be available for to launch vessels needed for project activities.

Finding 80.3.2.C:

The project is compatible with existing shorezone and lakezone uses or structures on, or in the immediate vicinity of, the littoral parcel; or that modifications of such existing uses or structures will be undertaken to assure compatibility.

Rationale:

The project will require the use of temporary turbidity curtains to contain aquatic herbicides within the treatment areas. Once the herbicides degrade, the turbidity curtains will be removed. While the curtains are in place, recreational boat passage will be restricted, however that impact is limited due to the early season implementation (Spring season), and temporary and are considered to be less than significant. No modifications to existing uses or structures are proposed.

Finding 80.3.2.D:

The use proposed in the foreshore or nearshore is water dependent.

Rationale:

The proposed test is to collect information on a variety of aquatic weed control methods- aquatic herbicides, ultraviolet light treatments by a vessel, laminar flow aeration, benthic berries, diver hand pulling and suction of aquatic weeds- and is therefore water dependent.

Finding 80.3.2.E

Measures will be taken to prevent spills or discharges of hazardous materials.

Rationale:

Hazardous materials will not be used in conjunction with the project. While aquatic herbicide use is regulated, they are not classified as “hazardous”. However, application of herbicides will be conducted by qualified persons, following a spill prevention and response plan.

Finding 80.3.2.F

Construction and access techniques will be used to minimize disturbance to the ground and vegetation.

Rationale:

All project area access will be through existing boat ramps and no ground disturbance is proposed.

Finding 80.3.2.G

The project will not adversely impact navigation or create a threat to public safety as determined by those agencies with jurisdiction over a lake's navigable waters.

Rationale:

Project activities will be mainly conducted from on the water vessels following all US Coast Guard safety and navigation requirements. Project activities are proposed for early in the boating season, minimizing conflicts with recreational boats. Notifications to boaters and area homeowners will occur prior to project activities commencing.

Finding 80.3.2.H

TRPA has solicited comments from those public agencies having jurisdiction over the nearshore and foreshore and all such comments received were considered by TRPA, prior to action being taken on the project.

Rationale:

Comments were solicited from public agencies during the release of the Draft Environmental Impact Statement. Comments were received from the following:

US Army Corps of Engineers:

- Compliance with Section 404 of the Clean Water Act for discharge of dredged or fill material into the waters of the US.
 - TKPOA currently has approvals for bottom barrier use, issued under Waster Discharge Requirements through Lahontan.

US Environmental Protection Agency:

- Recommends that the Final EIS contain information concerning post-application monitoring of Endothall and Triclopyr if they are proposed to be used in the CMT. Such monitoring should be for endothall acid and degradates of Triclopyr- triethylamine salt.
 - EPA recommendations will be followed. The NPDES permit monitoring requirements include analyses for endothall acid triethylamine salt.
- Recommends that the FEIS consider increased cyanotoxin monitoring at testing sites and measures to restrict public access to testing sites during periods of maximum HAB risk during the CMT. The FEIS should describe in detail the public notification and access restrictions that will be imposed if monitoring detects the presence of cyanotoxins.
 - Cyanobacteria monitoring is required in the NPDES permit (Lahontan) monitoring reporting program and notification procedures are associated with the State Board guidelines that Tahoe Keys Property Owners Association are already following.
- Recommends that lead agencies enlist the participation of the Tahoe Science Advisory Council (TSAC) in developing and/or peer reviewing both the experimental design and the effectiveness monitoring program of the selected CMT.
 - TSACE provided input on the analysis and proposed project test design, and concluded that the Tahoe Keys Lagoons Aquatic Weed Control Methods Test

DRAFT EIR/EIS, as a whole, has thoroughly considered the importance and urgent need for controlling aquatic invasive plants in the Tahoe Keys. Various approaches and alternatives that could be utilized for plant control for this situation and their potential impacts have been well-researched and presented in a logical way. The document is well written, transparent in its findings and includes sufficient data analysis to proceed with projects that seek to control plants. Based on this work, sustainable solutions should be developed before the situation worsens both in the Tahoe Keys and then the broader body of Lake Tahoe.

- The biological recovery portion of the Mitigation Monitoring Reporting Program (App B FEIS) was peer reviewed through the TSAC and concluded that the monitoring program was more than adequate to evaluate the recovery of benthic macroinvertebrates.
- Recommends that measures to minimize aquatic weed dispersal, including bubble curtains, seabins, and boat back-up stations, be included in the CMT project. We recommend requiring use of the boat back-up stations during the project, and that their effectiveness be monitored and evaluated.
 - TKPOA's Waste Discharge Requirements include an Integrated Management Plan (IMP) to address aquatic weed management (DEIS Section 1.1.3.2). Ongoing measures to control plant fragments and the monitoring and reporting of these activities are required elements of the IMP that would continue regardless of implementation of the CMT or other alternatives.

City of South Lake Tahoe:

- No issues of the project were identified but identified inconsistencies in correctly identifying services provided by the City of South Lake Tahoe and the South Tahoe Public Utility District.
 - The Final EIS (Chapter 4) was corrected to accurately reflect services provided by the City and those provided by the South Tahoe Public Utility District.

Finding 80.3.3.A

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.

Rationale:

The project proposes to test aquatic weed treatments to gain information on larger scale treatments meant to improve the uses of the waterways.

Finding 80.3.3.B

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.

Rationale:

The Tahoe Keys Lagoons Aquatic Weed Control Methods Test EIS identified potential impacts to Environmental Health, Water Quality and Aquatic Biology and Ecology (See Table ES-1 of the EIS). Mitigations proposed for these environmental issues reduce all impacts to less than significant.

Finding 80.3.3.C

The applicant has taken reasonable steps to protect the land, water, and air resources of both the applicant's property and that of surrounding property owners.

Rationale:

Proposed actions will have no impact or less than significant impacts to land and air resources to the applicant's or surround property owners. Potential water quality impacts identified in the Tahoe Keys Lagoons Aquatic Weed Control Methods Test EIS can be mitigated to less than significant and are described in the Rationale above.

Finding 80.3.3.D

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.

Rationale:

The proposed project is a test to obtain information of future aquatic weed control for the entirety of the Tahoe Keys, which is intended to improve the conditions within the neighborhood. The proposed test project 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.