



Mail

PO Box 5310
Stateline, NV 89449-5310

Location

128 Market Street
Stateline, NV 89449

Contact

Phone: 775-588-4547
Fax: 775-588-4527
www.trpa.gov

STAFF REPORT

Date: November 10, 2021
To: TRPA Governing Board
From: TRPA Staff
Subject: Tunnel Creek Alternative Trail, TRPA File Number EIPC2021-0008

Summary and Staff Recommendation:

Staff Recommends that the Governing Board make the required findings and approve the project.

Required Motions:

In order to approve the proposed project, the Board must make the following motion(s), based on the staff report and evidence in the record:

- 1) A motion to approve the required findings including a finding of no significant effect as shown in Attachment A.
- 2) A motion to approve the proposed project subject to the conditions contained in the draft permit as shown in Attachment B.

In order for the motion(s) to pass, an affirmative vote of 5-9 (5 Nevada and 9 total) of the Board is required.

Project Description/Background:

The Nevada Division of State Lands is proposing to construct the Tunnel Creek Alternative Trail. The trail is a 2.28-mile single-track alternative route to Tunnel Creek Road. The trail begins at the base of the Tunnel Creek canyon with indirect linkage to the Tahoe East Shore Trail and ending with linkage to the south end of the Incline Flume Trail. The project will address public safety issues between user groups on the very congested Tunnel Creek Road. The road is also very sandy and steep and is responsible for several bike accidents every year.

Issues and Concerns:

The TRPA Code of Ordinances requires Governing Board approval for new recreation trails exceeding one mile in length, or shorter trails that create new land coverage on low capability land or pass through sensitive wildlife habitat. The proposed new alignment is 2.28 miles and will cross Tunnel Creek. The length of the trail is the appropriate for the location. There is no alternative trail alignment that will reduce the length of the trail or avoid the disturbance to Tunnel Creek and still meet the purpose and need of the project. An elevated over-stream crossing will be constructed where the trail crosses Tunnel Creek. Best Management Practices will be installed through the 2.28-mile trail to prevent water quality impacts from the trail

Environmental Review:

The Nevada Division of State Parks submitted a TRPA Initial Environmental Checklist (IEC) to analyze the projects impacts. The IEC stated there were no significant effects to the proposed project. TRPA staff completed the V(g) findings as well. A Finding of No Significant Effect (FONSE) is appropriate for the project and is included as part of the draft permit (Attachment B).

Regional Plan Compliance:

The project complies with all requirements of the TRPA Goals and Policies, Plan Area Statements, and Code of Ordinances, including all required findings in Chapter 4.

Contact Information:

For questions regarding this agenda item, please contact Shannon Friedman, Senior Planner, at (775) 589-5205 or sfriedman@trpa.gov

Attachments:

- A. Required Findings/Rationale
- B. Draft Permit

Attachment A
Required Findings/Rationale

Attachment A
Required Findings/Rationale

Required Findings: The following is a list of the required findings as set forth in Chapters 4. Following each finding, Agency staff has indicated if there is sufficient evidence contained in the record to make the applicable findings or has briefly summarized the evidence on which the finding can be made.

1. Chapter 4.4.1 – Required Findings:

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

The Tunnel Creek Alternative Trail Project (Project) is located in the Washoe County Tahoe Area Plan, Tunnel Creek Conservation Regulatory Zone. Activities in this conservation regulatory zone are limited to dispersed recreation and riding and hiking trails are an allowed use. The project, as conditioned in the Draft Permit, is consistent with the Regional Plan and the Lake Tahoe Environmental Improvement Program (EIP). The project is a priority recreation EIP project that will build and enhance trail networks in the Tahoe basin as identified on the 5-year EIP List (EIP #03.02.02.0091).

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

Nevada Division of State Parks prepared a TRPA Initial Environmental Checklist (IEC) in accordance with Chapter 3 of the TRPA Code of Ordinances. TRPA staff completed the V(g) checklist. There are no significant impacts to the proposed project. The project benefits the recreation threshold by building and enhancing the trail network in the Tahoe Basin. Both the IEC and V(g) checklist are part of the project record and hard copies may be available upon request.

- C. Wherever federal, state or local air and water quality standards applicable for the Region, whichever are strictest, must be attained and maintained pursuant to Article V (g) of the TRPA Compact, the project meets or exceeds such standards.

All potential effects are temporary and shall be mitigated through temporary and permanent Best Management Practices and the sustainable design and construction of the proposed trail. The applicant will meet or exceed all federal, state, or local water quality standards.

Attachment B

Draft Permit



Mail
PO Box 5310
Stateline, NV 89449-5310

Location
128 Market Street
Stateline, NV 89449

Contact
Phone: 775-588-4547
Fax: 775-588-4527
www.trpa.gov

DRAFT PERMIT

PROJECT DESCRIPTION: Tunnel Creek Alternative Trail

EIP NUMBER: 590-000-00

PERMITTEE(S): Nevada Division of State Parks

FILE #: EIPC2021-0008

COUNTY/LOCATION: Washoe County/Tunnel Creek Area

Having made the findings required by Agency ordinances and rules, the TRPA approved the project on November 17, 2021, subject to the Standard Conditions of Approval attached hereto (Attachment Q) and the special conditions found in this permit.

This permit shall expire on November 17, 2021, unless project is diligently pursued every year. Diligent pursuit shall be defined by the condition of approval relating to completion of the project. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action which delayed or rendered impossible the diligent pursuit of the permit.

NO TREE REMOVAL, CONSTRUCTION OR GRADING SHALL COMMENCE UNTIL:

- (1) TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE(S) HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT;
- (2) ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA’S ACKNOWLEDGEMENT OF THIS PERMIT;
- (3) A TRPA PRE-GRADING INSPECTION HAS BEEN CONDUCTED WITH THE PROPERTY OWNER AND/OR THE CONTRACTOR.

11/17/2021

TRPA Executive Director/Designee

Date

PERMITTEE’S ACCEPTANCE: I have read the permit and the conditions of approval and understand and accept them. I also understand that I am responsible for compliance with all the conditions of the permit and am responsible for my agents’ and employees’ compliance with the permit conditions. I also understand that if the property is sold, I remain liable for the permit conditions until or unless the new owner acknowledges the transfer of the permit and notifies TRPA in writing of such acceptance. I also understand that certain mitigation fees associated with this permit are non-refundable once paid to TRPA. I understand that it is my sole responsibility to obtain any and all required approvals from any other state, local or federal agencies that may have jurisdiction over this project whether or not they are listed in this permit.

Signature of Permittee(s) _____ Date _____

sf

EIP NUMBER: 03.02.02.0091
FILE NO. EIPC2021-0008

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

TRPA ACKNOWLEDGEMENT: The permittee has complied with all pre-construction conditions of approval as of this date:

TRPA Executive Director/Designee

Date

SPECIAL CONDITIONS

This permit specifically authorizes the construction of the Tunnel Creek Alternative Trail. The proposed new trail is a Nevada Division of State Parks project. It is a 2.28-mile single-track alternative route beginning at the base of the Tunnel Creek canyon with indirect linkage to the Tahoe East Shore Trail and ending with linkage to the south end of the Incline Flume Trail. The need for the trail comes primarily from a desire to address public safety issues between user groups on the very congested Tunnel Creek Road. The road is also very sandy and steep and is responsible for several bike accidents every year. All improvements will be Nevada Division of State Parks property. Construction is planned for the 2022 grading season.

1. The Standard Conditions of Approval listed in Attachment Q shall apply to this permit.
2. Prior to permit acknowledgement, the following conditions of approval must be satisfied:
 - A. Submit the final construction drawings.
 - B. Submit the Maintenance Responsibilities and Plan Chart which outlines who will maintain what infrastructure, and the anticipated funding source to support that work.
3. Prior to the pre-grade inspection, the following conditions of approval shall be satisfied:
 - A. The permittee shall submit an updated construction schedule to TRPA prior to commencement of construction. This schedule shall identify dates for the following:
 - When installation of temporary erosion control structures will occur;
 - When each stage of construction will start;
 - When construction spoils and debris will be removed;
 - When installation of all permanent erosion control structures will occur;
 - When construction will be completed;
 - The estimated date for when the final inspection by TRPA Environmental Compliance staff will take place to ensure that all conditions of project approval have been satisfied.
 - B. An EIP project sign shall be approved, fabricated, and installed at approved location(s) within the project area.

4. An onsite inspection by TRPA staff is required prior to any construction or grading activity. TRPA staff shall determine if the onsite improvements required by Attachment Q (Standard Conditions of Approval) have been properly installed. No grading or construction shall commence until TRPA pre-grade conditions of approval are met.
5. All new galvanized or reflective metal surfaces including but not limited to guardrails, traffic signal posts, light posts, utility boxes, backs of signs, and exposed culverts shall be colored. Color samples shall be submitted to TRPA for review and approval prior to installation.
6. Any normal construction activities creating noise in excess to the TRPA noise standards shall be considered exempt from said standards provided all such work is conducted between the hours of 8:00 A.M. and 6:30 P.M. Regular construction work outside of these hours may require noise monitoring to ensure the project will not be in violation of TRPA noise standards.
7. The color of rock, articulated block or concrete shall blend in with the native environment and be approved by TRPA prior to placement.
8. Grading is prohibited any time of the year during periods of precipitation and for the resulting period when the site is covered with snow, or is in a saturated, muddy, or instable conditions (pursuant to Subsection 64.2.C of the TRPA Code of Ordinances).
9. The adequacy of all required temporary BMPs, as shown on the final construction plans, shall be confirmed at the time of the TRPA pre-grading or pre-construction inspection. Any required modifications, as determined by TRPA, shall be incorporated into the project permit at that time. Adequate BMPs must be installed prior to construction, regardless of the amount or type of BMPs shown on final construction plans.
10. All construction equipment working in or near Stream Environment Zones (SEZ) must be steam cleaned prior to mobilization at the project site and maintained in clean and good working order with maintenance logs available to TRPA per request.
11. All material obtained from any excavation work that is not contained within foundations, retaining walls, or by other methods approved by TRPA shall be removed from the subject parcel and disposed of at a site approved by TRPA.
12. If artifacts, archaeological soils, or unusual amounts of bone or shell are uncovered during the construction activities, all work in the area will be stopped and a qualified archeologist will be immediately contacted for on-site consultation.
13. The roots of trees (adjacent to the pathway) over four inches in diameter shall not be severed, if avoidable, pursuant to Subsection 65.2F of the TRPA Code of Ordinances.
14. No trees shall be removed (other than those shown on the approved site plan) without prior TRPA written approval as per the Landscape and Revegetation Plan. During the project design refinement all opportunities shall be explored to reduce the number of trees to be cut that are greater than 14 inches diameter at breast height (dbh), especially those greater than 24" dbh in east side forest types and 30" dbh in west side forest types.

15. The path and revegetated areas will be maintained over time consistent with the approved plans. Modifications to this facility, including improvements constructed in association with this project, shall be subject to TRPA review and approval.
16. This approval is based on the permittee's representation that all plans and information contained in the subject application are true and correct. Should any information or representation submitted in connection with the project application be incorrect or untrue, TRPA may rescind this approval, or take other appropriate action.
17. Any modifications to the TRPA approved plans shall be submitted to TRPA for review and approval.
18. The permittee is responsible for ensuring that the project, as built, does not exceed the approved land coverage figures shown on the site plan. The approved land coverage figures shall supersede scaled drawings when discrepancies occur.
19. This site shall be winterized in accordance with the provisions of Attachment Q by October 15th of each construction season. All disturbed areas shall be stabilized with a 3-inch layer of mulch or covered with an erosion control blanket.
20. All permanent BMPs shall be maintained per an approved BMP inspection and maintenance plan.
21. Permittee shall contact TRPA for a final inspection at the conclusion of the project to verify that all conditions of the permit have been met and the project was implemented per the TRPA approved Plans.
22. All rock material (gravel, cobble, and boulders) shall be clean and thoroughly washed prior to arrival at the site to ensure that the rock is free of any silt or clay particles.
23. The discharge of petroleum products, construction waste and litter (including sawdust), or earthen materials to the surface waters of the Lake Tahoe Region is prohibited. All surplus construction waste materials shall be removed from the project site and disposed of at approved points of disposal.
24. To the maximum extent allowable by law, the Permittee agrees to indemnify, defend, and hold harmless TRPA, its Governing Board, its Planning Commission, its agents, and its employees (collectively, TRPA) from and against any and all suits, losses, damages, injuries, liabilities, and claims by any person (a) for any injury (including death) or damage to person or property or (b) to set aside, attack, void, modify, amend, or annul any actions of TRPA. The foregoing indemnity obligation applies, without limitation, to any and all suits, losses, damages, injuries, liabilities, and claims by any person from any cause whatsoever arising out of or in connection with either directly or indirectly, and in whole or in part (1) the processing, conditioning, issuance, or implementation of this permit; (2) any failure to comply with all applicable laws and regulations; or (3) the design, installation, or operation of any improvements, regardless of whether the actions or omissions are alleged to be caused by TRPA or Permittee.

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

END OF PERMIT