

TAHOE REGIONAL PLANNING AGENCY  
LEGAL COMMITTEE

TRPA  
Zoom

April 26, 2023

**Meeting Minutes**

CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Williamson called the meeting to order at 8:30 a.m. on April 26, 2023.

Members present: Ms. Aldean, Ms. Williamson, Ms. Faustinos, and Ms. Gustafson. [Mr. Rice arrived at 8:35 a.m.]

Members absent: Mr. Hicks.

I. APPROVAL OF AGENDA

Mr. Marshall stated there was no need to hold a Closed Session so items 4 and 5 could be skipped. In addition, Steve Sweet suggested the presentations for items 3 and 4 be heard in conjunction as they involved the same property and then the Committee would vote on the proposed Settlement Agreements separately.

Ms. Williamson deemed the agenda approved as amended.

II. APPROVAL OF MINUTES

Ms. Aldean indicated that she submitted some corrections to Marja Ambler, TRPA Governing Board clerk. Ms. Aldean made a motion to approve the March 22, 2023 Legal Committee meeting minutes as amended.

**Motion carried** by unanimous voice vote.

III. RECOMMENDATION REGARDING RESOLUTION OF ENFORCEMENT ACTION: MIKE ZANETELL; UNAUTHORIZED WATERCRAFT LAUNCHING, 1141 FALLEN LEAF ROAD, EL DORADO COUNTY, CA ASSESSOR'S PARCEL NUMBER 021-251-014, TRPA FILE NO. CODE2023-0026

TRPA Code Compliance Manager Steve Sweet presented this item to the Legal Committee. Both violations involved the unauthorized launching of watercraft without the required AIS inspections over private property.

The violations occurred on the Fallen Leaf lakefront property located at 1141 Fallen Leaf Road, El Dorado County, California.

In September 2022 TRPA staff responded to a complaint of unauthorized watercraft launching on the Gray Property located on the south shore of Fallen Leaf Lake.

During this inspection, TRPA staff spoke with Katie Gray and discovered that they had launched their watercraft over the Gray Property without any authorization or required launch inspections.

Through further discussion with the Grays, staff also learned that Mike Zanetell had launched his watercraft over the Gray Property without the required launch inspections.

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Both watercraft had been in Fallen Leaf Lake over the summer of 2022 until removed at the boat ramp at the end of the season.

The launching of any motorized watercraft without an AIS inspection is a risk to Fallen Leaf lake and occurred in violation of TRPA Code Section 63.4.1.C (Prohibiting the launching, or attempting to launch, of any motorized watercraft into the waters of Lake Tahoe without an AIS inspection by TRPA or its Designee) and TRPA Code Section 82.3.1 (An activity which is not specifically exempt (pursuant to Section 82.4), qualified exempt (pursuant to Section 82.5), or a continuation of an existing use (pursuant to Section 81.6), is subject to TRPA review and approval.

Zanetell is currently working on a TRPA permitted construction project on the Gray Property and should be familiar with the approved plans which do not include any launching facility for motorized watercraft.

Gray and Zanetell are taking full responsibility for the unauthorized activities and have agreed to a settlement where they will each pay a penalty of \$4,000 to TRPA. The Grays will also block off access to the unauthorized launch area.

Staff is recommending that the Governing Board approve the proposed settlement agreement for Zanetell which is a \$4,000 penalty to TRPA.

Mr. Zanetell's wife stated that she didn't have anything to add.

### Committee Member Questions & Comments

Ms. Aldean stated that she was confused by Mr. Zanetell's reasoning as to why he did not get an AIS inspection which was that hot water from any possible decontamination would damage his boat? Ms. Aldean's understanding is that the boat had not been anywhere other than Fallen Leaf Lake.

Mr. Sweet confirmed that this was correct although Zanetell did not get his boat sealed after removal from the previous season which is why it would have required a new inspection.

Ms. Aldean assumes even then that he would not have required a decontamination and wonders about his misconception that using hot water would damage the hull or engine of a boat.

Dennis Zabaglo, TRPA AIS Program Manager, responded that hot water has been used in decontaminations since the program's inception in 2008. TRPA works closely with the boat industry to determine appropriate temperatures for the water to protect boats but also protect the Lake. 120-140 degrees Fahrenheit is appropriate to kill any AIS of concern and is determined safe for boats per industry standards based on lifetime tests on pumps and other components.

Ms. Aldean states then that if this is a legitimate concern of the public that this information be included in literature.

Mr. Zabaglo agrees and stated that any damage that has occurred to boats during inspections was not due to water temperature but rather due to neglect of maintenance by the boat owner(s) and that these instances are very rare regardless.

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Ms. Zanetell states this was the first time she was aware that Mr. Zanetell was concerned about any damage from the hot water since they used their boat to train the Fallen Leaf Marina staff on how to do these inspections. He's not anti-cleaning boats.

Public Comment

None.

Ms. Gustafson moved to approve the Settlement Statement as proposed in Attachment A.

Ayes: Ms. Aldean, Ms. Williamson, Ms. Faustinos, Ms. Gustafson, and Mr. Rice.

Nays: None.

**Motion carried.**

IV. RECOMMENDATION REGARDING RESOLUTION OF ENFORCEMENT ACTION: ANDREW AND KATIE GRAY; UNAUTHORIZED WATERCRAFT LAUNCHING, 1141 FALLEN LEAF ROAD, EL DORADO COUNTY, CA ASSESSOR'S PARCEL NUMBER 021-251-014, TRPA FILE NO. CODE2023-0027

The presentation for item no. 3 also addressed this item. The staff recommendation for the Grays is to pay a \$4,000 penalty to TRPA and to block off the unauthorized launch area.

Lew Feldman spoke on behalf of the Grays. They are well-intentioned folks who didn't know better and hadn't taken their boat anywhere else so ultimately did not threaten Fallen Leaf Lake. They are in support of the Settlement Agreement.

Committee Member Questions & Comments

Ms. Aldean states that there's a reference to the launching of watercraft with the creation of a launching area on the Gray property requires TRPA review but she's unclear if there's anything in the Settlement Agreement itself that requires the blocking off of the launching area. Should that be included, or is it sufficient to simply include it in this action by the Legal Committee?

John Marshall directed Ms. Aldean to page 59 of the packet, item 2 which states that the Grays shall block off launching access on their property as part of the Settlement Agreement. Ms. Aldean was satisfied and apologized for overlooking that item.

Public Comment

None.

Ms. Aldean moved to approve the Settlement Statement as proposed in Attachment A.

Ayes: Ms. Aldean, Ms. Williamson, Ms. Faustinos, Ms. Gustafson, and Mr. Rice.

Nays: None.

**Motion carried.**

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- V. RECOMMENDATION REGARDING RESOLUTION OF ENFORCEMENT ACTION: NATALIE BUCCINI, THOMAS PEABODY, AND JACOB BUCCINI; UNAUTHORIZED TREE REMOVAL, 1540 CHERRY HILLS, EL DORADO COUNTY, CA ASSESSOR'S PARCEL NUMBER 033-292-011, TRPA FILE NO. CODE2022-0092

TRPA Code Compliance Manager Steve Sweet presented this item to the Legal Committee. This violation involves unauthorized tree removal of six trees on a single-family dwelling construction project.

The violations occurred on the Buccini/Peabody Property located at 1540 Cherry Hills, El Dorado County, Ca.

In October 2022 TRPA staff responded to a complaint of unauthorized tree cutting at the Buccini/Peabody Property.

During this inspection, TRPA staff discovered that several trees larger than 14 inches DBH had been removed that were not authorized on the approved plans.

After further investigation and discussion with the El Dorado County Building Department and the Settling Parties, TRPA staff determined that El Dorado County gave clear direction at the time of pre-grade and that six trees between the sizes of 15-26 inches DBH were removed without any authorization from TRPA or El Dorado County.

Mr. Sweet showed the Legal Committee an image of the site plan that Jacob Buccini was using when TRPA staff inspected the complaint. On the plans, none of the trees were marked for removal by TRPA. The black Xs, TRPA Staff assumes Mr. Buccini added himself. The site plans in TRPA's files do not have these Xs. There seemed to be confusion on the plans that the symbol that denotes "tree" on the plans showed an X and that it should be removed. TRPA staff disagrees that the site plan indicated removal of any trees. When trees are designated for removal, there is a large X across the tree symbol.

TRPA staff feels that El Dorado County was very clear regarding which trees were to be removed. The county inspector allowed all the trees within the footprint of the house to be removed, but told them that any other trees outside of that besides 2 trees in the front would need to be permitted by TRPA. TRPA typically not mark all those trees around the outside of the property through the permitting of a single-family dwelling; those would typically be removed only with approval by our Forester.

The removal of these six trees occurred in violation of TRPA Code Section 61.1.5: Requiring TRPA approval for removal of all trees greater than 14 inches DBH; and TRPA Code Section 2.3.2.M: The tree removal is a non-exempt project and must be reviewed by TRPA.

The Settling Parties have taken full responsibility for the unauthorized activities and have agreed to a settlement where they will plant six mature 10-15 foot native conifers in TRPA approved locations and pay a penalty of \$24,000 to TRPA.

Staff is recommending that the Governing Board approve the proposed settlement agreement.

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Committee Member Questions & Comments

Ms. Aldean asks that in the Settlement Agreement under paragraph two it says a tree permit will be required for the removal of any of the 6 replacement trees, no matter the size of the trees or it's condition. So, if the tree is dead, TRPA still wants the right to inspect the tree, to confirm that it's no longer viable?

Mr. Sweet confirms this is true because if the replacement trees die within 5 years of the Settlement Agreement, they need to be replaced again. He stated it explicitly in the Settlement Agreement because there has been past confusion if the property changes hands. Mr. Sweet wants to ensure that they're protected until they're 14 inches dbh.

Ms. Aldean suggests adding that a TRPA inspection is required no matter the condition of the tree so that even if it dies when it's over 14 inches within a certain time, it doesn't get removed without TRPA approval. She understands that this agreement is already signed so this is a suggestion going forward.

Ms. Aldean states that what's curious about this is that any extra the trees that were removed a all. This is not a lakefront property, it doesn't appear to be interfering with any view corridor it's not interfering with the development of the house or the development of any of the improvements. It's odd those trees would have been removed because there was no logical reason for them to be taken down.

Mr. Sweet stated his agreement. Mr. Marshall added that there's sometimes motivation to gain sunlight but we don't actually know the motivation for the tree cutting in this case.

Natalie Buccini addressed the question of motivation and stated that there was confusion after the pre-grade one was completed. Jacob was there with the inspector Chris and Jacob had marked all the trees that he thought were to be removed according to the plans from the El Dorado County. The approved set of plans, however, did not contain a tree page the way that they were supposed to for him to better designate which trees were to be removed.

It was never clarified why the tree page was not included for Jacob, but he was going with the approved set of plans and trying to determine which trees were marked for removal, and in doing so he put a ribbon around each of the trees and at the pre-grade one inspection with Chris, they walked the property together, they called the architect, and it was Jacob's understanding that the trees he marked were approved to be removed.

The trees that were removed where removed more out of a concern to protect the space around the house not necessarily just the footprint, but where there would be decks that go out from that footprint and the property right next door to the Buccini/Peabody property is heavily treed, and we were worried about the fires and things like that.

Ms. Gustafson wonders if TRPA considers the size of the root ball for replacement trees rather than just the height. If there isn't a certain size root ball, it's less likely to survive regardless of the height. Mr. Marshall states that generally TRPA uses height but that staff can consider root ball size as well.

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Public Comment

None.

Ms. Gustafson moved to approve the Settlement Statement as proposed in Attachment A.

Ayes: Ms. Aldean, Ms. Williamson, Ms. Faustinos, Ms. Gustafson, and Mr. Rice.

Nays: None.

**Motion carried.**

VI. CLOSED SESSION WITH COUNSEL TO DISCUSS EXISTING AND POTENTIAL LITIGATION

No closed session.

VII. POTENTIAL DIRECTION REGARDING AGENDA ITEM NO. 6

No direction.

VIII. COMMITTEE MEMBER COMMENTS

None.

IX. PUBLIC INTEREST COMMENTS

None.

X. ADJOURNMENT

Ms. Aldean moved to adjourn.

Meeting adjourned at 8:29 a.m.

Respectfully Submitted,



Katherine Huston  
Paralegal

The Legal Committee Slides can be viewed at <https://www.trpa.gov/wp-content/uploads/TRPA-Legal-Committee-April-26-2023.pdf>

*The above meeting was recorded in its entirety. Anyone wishing to listen to the recording may find it at <https://www.trpa.gov/meeting-materials/>. In addition, written documents submitted at the meeting are available for review. If you require assistance locating this information, please contact the TRPA at (775) 588-4547 or [virtualmeetinghelp@trpa.gov](mailto:virtualmeetinghelp@trpa.gov).*