From:	Al Miller
To:	Marja Ambler
Cc:	John Marshall
Subject:	Re: Feb 22, 2023 TRPA Governing Board and FHAW Committee Meetings; Comments Opposing the Lifting of a Code Prohibition for proposed South Tahoe Refuse Biofuels Facility
Date:	Tuesday, February 21, 2023 5:27:58 PM

Ms. Ambler, please disregard my email of a minute or two ago. To clarify an error in my letter provided earlier today, the Item in the Governing Board's consent calendar as Item V.3 I misidentified in the subject line of my letter as "V.1." **Item V.3.** is what I meant to write when I requested the Item be removed from the agenda or otherwise removed from the consent calendar to conduct a public hearing. I apologize for the error and any confusion. Sincerely, Alan Miller, PE

On Tue, Feb 21, 2023 at 11:00 AM Al Miller <syngineer1@gmail.com> wrote:

> Dear Ms. Ambler, Please forward these comments to those addressed below. I have noted from prior experience that comments from the public posted online by TRPA may not include attachments to emails. I have therefore reproduced the entire text of the attached pdf below for the record in these matters, Thank you, Alan Miller, PE
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> **Date:** February 21, 2023
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> **To**: TRPA Governing Board Chair Gustafson and Governing Board Members
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> TRPA Forest Health and Wildfire Committee Chair Hicks and Committee Members
>
> **From**: Alan Miller, PE
> PO Box 7526
> S Lake Tahoe CA 96158
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> **February 22, 2023 TRPA meetings: Forest Health and Wildfire Committee; Comments Opposing the Agenda Item #4) "Possible recommendation on lifting of the prohibition on accepting applications under Code Section 65.1.6(F) for an application for a small on-site biofuel unit at the South Tahoe Refuse site in South Lake Tahoe, California (action);" AND Comments Opposing Governing Board Agenda Item V.1, as Cited Above; El Dorado County**
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> I became aware of this TRPA staff proposal in the above subject line through the public notice in the legal section of the Tahoe Daily Tribune on January 27, 2023. The legal notice said the TRPA would hold a public hearing in the matter, which appears on the Governing Board's agenda Consent Calendar as a non-controversial item with no public hearing planned. It appears that the Forest Health and Wildfire (FHAW) Committee will meet publicly and approve the staff recommendation to "lift" the prohibition as a foregone conclusion, and then forward the recommendation to the Governing Board for its adoption on consent later in the day. My first request is that the items concerning South Tahoe Refuse be removed from both agendas, as premature, contrary to law and unsupported. Lacking that, my second request is to remove the items from Governing Board's Consent

Calendar and plan for public hearings on this matter both before the FHAW Committee and the full Governing Board, outside of the general Public Participation item noted in the Agenda, as suggested in the agenda public notice. Should I be unable to attend the meetings for any reason, or if public hearing(s) are not held, these comments stand as my testimony.

Knowing TRPA publishes few such public notices and seeing that lifting a prohibition under the TRPA Code of Ordinances (Code) was involved, I inquired to staff by phone as to why the public notice was issued. Two staff I spoke to didn't know why the public notice was issued, and one suggested it was a decision of management. I was told there was no other information available related to the public notice and I was provided a link to information from a meeting in November 2022, and told there would be a Staff Report when the TRPA meeting agenda came out a week before the 2/22/23 meeting. The reason behind the public notice remains unexplained in the Staff Report discussed below, and there is some question about whether public noticing requirements are met for these items since no proposal was available to the public 20 days in advance of the meetings, and the Staff Report was not posted until 6 days before the meeting.

The November 2022 Lead-Up

Upon inquiry to staff I learned there had been a FHAW Committee meeting held in November of 2022 at which South Tahoe Refuse (STR) and others presented to TRPA and assembled persons a design proposal for a currently-prohibited biofuels facility, in hopes of enticing TRPA staff to recommend that the FHAW Committee recommend to lift the prohibition against accepting a permit application for its planned biofuels facility. No information other than this was available publicly until February 16, 2023, with the agenda publication and the Item 4 Staff Report. I did not attend the Committee meeting but reviewed the minutes of it provided in the TRPA Agenda packet. Clearly, the staff and Committee didn't need much if any enticing to go against its own ordinances, put the cart before the horse, and recommend to "lift" the prohibition on a "one-time" basis as the *ad hoc* non-planning agency TRPA is, doing whatever it deems is best without regard for the regulatory law, findings of fact, or the public interest. The criterion, if it can even be considered as such, for "further research" is inadequate to allow the Committee to "lift" the prohibition in the manner proposed for a single facility. There is no exemption available for STR's proposed activity short of a policy-level analysis of all applicable "further research" needed to support a Code amendment for the Tahoe region. It appears the decision won't even go before the full Governing Board; the Committee's action, if approved as recommended by staff, will purportedly give the Executive Director authority to override the prohibition and accept from STR a permit application for its planned biofuels facility. That is arbitrary and capricious and contrary to law, TRPA just making the process up as it goes.

The Prohibition that Isn't

While the public is unaware, but knowing there is a prohibition in the Code of Ordinances against TRPA accepting applications for biofuel facilities, TRPA staff has been promoting, behind the scenes since 2021, a "one-off" application approval (per the Staff Report conclusion, pdf p 127) rather than doing what the law requires in my view: The law requires amending the Code of Ordinances to allow such applications if the amendment is justified and in accordance with law (i.e., the Rules of Procedure, the Compact, and other parts of the Code of Ordinances), for ALL prospective biofuel facilities that meet the criteria established under a Code amendment. That's called planning. I don't know what to call this TRPA proposal but subterfuge, a trick or expedient done to avoid something more difficult.

In order to amend the TRPA Code in any manner there are a number of requirements that must be met. The Rules of Procedure (ROP) section 4.3 requires public notice in a newspaper at least 20 days before a public hearing shall be held AND a draft or summary of the ordinance must be available 20 days before, also. TRPA is avoiding these and other applicable requirements by avoiding a Code change and instead seeking to "interpret" a prohibition (Code section 65.1.4.E) against accepting applications for "biofuel facilities," saying that it is okay to do so for this one single facility, and without making any findings of fact as required in ROP Section 4. Required Findings.

ROP section 4.2 says the findings are required for "any other action specified in the Code . . ." This finding does not appear to apply because TRPA is doing something that is NOT specified or allowed in the Code, voting to accept a prohibited application for a New Stationary Source combustion appliance under Code section 65.1.6.F., which states: "TRPA shall suspend acceptance of applications for biofuel facilities until further research demonstrates the safety and environmental compatibility of such facilities." Note use of the plural "facilities." This is clearly a programmatic suspension with no allowance for "lifting" the Ordinance limitation for a singular facility. By contrast, the preceding Code section lists exemptions for "activities" not subject to New Stationary Source Review requirements, and the siting of a new biofuels facility at STR is not among the exemptions. TRPA's position seems to be that these limitations can be avoided with a bit of language manipulation, an interpretation favorable to the Project. I disagree.

There is no provision in the law for such lifting of the prohibition on what is in fact a facility-specific basis. This is an underground regulatory program whereby, if one submits the right information for the unspecified "right" type or sized biofuel facility, there is a prohibition on the books that really isn't a prohibition at all. (In California, the effect of underground regulations pursuant to law is null and void, and the Office of Administrative law is empowered to enforce such restrictions on California government agencies.) This is just TRPA again abusing its discretion, discretion it does not possess, to violate the law to achieve its unplanned *ad hoc* ends for an entity it is supposed to be regulating. I therefore strenuously oppose the proposed action which is arbitrary and capricious in the extreme.

Preliminary Project Assessment by TRPA Is Lacking

Understand that my opposition is against the proposed TRPA *action*, not so much against the Project or facility *per se*, which claims that it can meet all applicable requirements. Without prejudging the outcome of a formal Permit review, perhaps it can, aside from the prohibition, though potentially significant adverse impacts have barely been disclosed or explored by TRPA. Nor do I oppose the prospective Permit applicant for wanting what it wants. I do not think this is the time for that Project-level analysis, e.g., critiquing the consultant's preliminary report in detail, for the application is not even supposed to be considered until the Code amendment is brought before the public and the Code is amended!

My opposition is primarily on administrative grounds, against TRPA again incorrectly and loosely interacting with its own requirements in promoting the siting of a new industrial facility (in this case augmenting an existing industrial facility, STR), in a mixed commercial neighborhood. That neighborhood includes nearby residences, a nearby stream environment zone (SEZ) restored at public expense, and Tahoe Island Elementary School within blocks and downwind of the STR. There is also a wireless macrotower across the street from the STR facility, with unknown, undisclosed effects of microwaves on gas emissions. More noise for the local residents is disclosed, possibly including night noise that is currently minimal. For all we know, the facility will operate noisily for 24 hours per day every day of the year. Heap more environmental injustice on those living by the noisy, odoriferous STR facility; they have no voice. The only environmental analyses carried out thus far have been by STR and its consultant based on the Staff Report, with no critique or analysis offered by TRPA or input solicited from the public on the Staff Recommendation until now, only agency cheerleading to break the law.

Permit Approval Expectations

Assuming the prohibition is illegally lifted and a Permit application is provided by STR, then what? The Project permit can't be issued in violation of the Code and its prohibition, which it can never meet unless the Code is amended. This is the cart before the TRPA horse and sets the stage for TRPA to give more false reports and testimony about how the Project meets all the applicable Compact and Code requirements, when it does not now and never will meet the requirements, being accepted illegally, it becomes the fruit of TRPA's poisoned tree. This is doing the public and the STR no service despite all appearances. It clearly shows TRPA has sold out its own regulations. TRPA would have us think the prohibition in the Code is really permissive, saying that as long as TRPA goes through a standard permitting process they can accept an application for a "pilot facility." Here, the regulatory program being piloted has not been fully described and articulated in the public forum, though I suspect it's probably for something other than "that 2 MW Kings Beach biofuels facility" referred to

which led to the "moratorium," but that is pure speculation on my part. That was such a public relations disaster for TRPA over a decade ago that the matter of amending the Code has rested (and that proposed, relocated, facility is still not operating at the Placer County Cabin Creek refuse site).

Nonetheless, I predict TRPA approval of an STR Permit as a foregone conclusion if a prohibited application is allowed. I see this effort by TRPA as opening the door to let STR, and therefore others so inclined, get their foot in the door to get around the prohibition. How can it be otherwise and afford equal access to all under the law? Its action will encourage other applicants to do exactly the same thing, which TRPA either thinks is great (though illegal) or hasn't thought through. TRPA can't limit STR to what is proposed in its application, now or in the future, it can only illegally agree to process an application, which can later be amended if approved or denied. Today, the proposal is to gasify 1000 tons of wood fuel per year. There is nothing to prevent anyone else from applying with another so-called "pilot project" or something else TRPA makes up from its interpretations of requirements. No environmental or cumulative effects analysis will ever get done, little air analysis, just a focus on minimal reduced truck trips. No evaluation of any alternatives to say that gasification is the way to go for Lake Tahoe, with its NOx challenges. There is nothing to prevent STR from applying to increase that fuel amount without limit in the future, as a permit amendment or some other "approval" TRPA dreams up *ad hoc*. There is lots of available fuel and economic incentives to think STR (and others) may seek with this precedent to increase gasification, and there are engineering provisions to expand the combined heat and power system at STR through modular design.

Precedent

TRPA is also setting a precedent for how to seemingly "get around" the prohibition: just submit information that TRPA will use to claim it has met the requirement for a Code amendment, that "further research demonstrates the safety and environmental compatibility of such facilities"–but on a Project-by-Project basis, a staff-time-consuming proposition, versus establishing a planning and regulatory framework for biofuels facilities in the Region. This quoted language is not a criterion for granting a Code exception, as in so many other TRPA Code sections, including the one just preceding, nothing of the sort. "Further research" has no specific meaning that can be ascribed and TRPA knows it.

> "Dr. McIntyre said it is important to note that the Code does not expand upon what the research looks like, or who can lift the prohibition.
> Further, the Code defines Biofuel Facilities as, "facilities that combust or gasifies forest and or plant, materials in a manner that, in combination with other systems generates electrical energy for use of distribution, or generates heat for distribution within a building or facility.

> Dr. McIntyre said this language has really hamstrung what they can and cannot even see as an Agency . . ." (2/22/23 Agenda pdf p 24)

No criteria. That's the lame language of the Ordinance. Anything "further" than what was known in the past apparently can be considered. "Research" is not given a regulatory meaning in the context of the regulation. Consulting my World Book Dictionary, research is defined as follows: "1. . . hunting for facts or truth about a subject; inquiry; investigation . . . 2. organized scientific investigation to solve problems, investigate hypotheses, or develop or invent new products. . . . " Given the Bi-State Compact's charge in Article VII(a)(1) when acting on matters potentially affecting environmental quality, to "Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;" TRPA should be using the latter definition. We have nothing like that research here, no policy goals, no comparisons of alternative technologies, little analysis of potential effects, cumulative or otherwise, no methods presented, no conclusions, no hypotheses tested. What we have is a very limited analysis of a proposal for a specific design chosen by STR, no research of the kind clearly intended by the Compact and in light of the record of the Ordinance adoption, no findings or conclusions, and nothing to support violating the Ordinance on the basis of the facility design report put forward.

The language of the Ordinance does <u>not</u> open the door for this STR Project application as proposed—rather, it begs a clarifying amendment to the Code, and perhaps some legitimate exemption criteria. The legal and Executive staff surely knows that what they are doing is improper and not in accordance with law: the evidence is between the lines in the minutes from the Committee meeting (as in the extended quote below) where Counsel said, "the TRPA . . . should [be] clear about that intent." I agree, and that hasn't been done. How can the policy intent be clear when there is no such policy proposal or amendment in the record here? The TRPA has not made that policy intent clear, and will let the "pilot project" lead the Code amendment, which is improper and not in accordance with law.

Code Amendment Needed

There is a process to pursue Code amendments. Per ROP section 4.8, "Proposals for ordinances and amendments may be made by TRPA or other interested persons or entities, including public interest groups and government agencies. For proposals that the Executive Director deems appropriate for submission to the Board, the Executive Director shall cause the appropriate environmental documents to be prepared and public hearings, if required, to be held." The clear implication here is that if the Executive Director perceives a need for a Code amendment is warranted, it shall be adopted through the public processes mandated elsewhere in the Code. The only evidence presented that a Code amendment is

contemplated, somewhere in the not-too-distant but unspecified future, is not from the Executive Director, but from the Chief Counsel and staff in the minutes of the November 2022 Committee meeting: (2/22/23 Agenda pdf p 30, **emphasis added**):

> ". . . Ms. Shelly Aldean said that she was trying to visualize the timeline, and asked if they would need an amendment to the Code, exempting this project as a pilot project from the current moratorium.
> Mr. Marshall responded no – given the information presented today, for that particular project.
> **The next step would be for the Governing Board to amend that provision.**
> Ms. Aldean said that as a pilot program, they would presumably wait for the facility to be constructed and operating to evaluate its real-life impacts. She added that she is in favor of this proposal but want to make sure that the intent is not misrepresented to members of the public who were so adamantly opposed to the facility proposed for King's Beach. Ms. Aldean said that presumably you have pilot programs to demonstrate the efficacy of the process, but it sounds like they are not going to wait for the facility to be constructed and operating to evaluate its real-life impacts. **Mr. Marshall replied that they are not intending to delay the examination of the overall policy for several years until the STR project is operational. He agreed that they should clear about that intent.**
> Mr. Marshall added that **they are using the term pilot project in relation to lifting the moratorium for one particular project**, and establishing the fact that there is new information relevant to that particular project to allow the Executive Director to lift the moratorium."

Let's be clear, the "examination of the overall policy" here is a reference to amending that Code provision to accept applications for biofuel facilities, from any prospective applicant, Code by which the staff is "hamstrung" as elsewhere stated. It's not information relevant to "that particular project" that is allowable under the provision. Clearly, nothing specific has been proposed, if it even exists, in terms of a new biofuels facility policy, no environmental evaluation has been conducted recently to my knowledge, or you'd think we'd see it here in this agenda item. A new biofuels policy supported by a Code amendment seems like a good idea, but it will take some time and actual "further research" instead of only evaluating a proposed activity by STR. The proposal to "lift" the limitation on accepting an application from STR in light that no policy or amendment has been put forward is contrary to law and poor planning, or no planning at all, and blatantly illegal.

The need for a Code amendment was questioned by Ms. Santiago, a member of the public in attendance at the FHAW Committee meeting, with expectations for additional biofuel facilities , and TRPA opined that it might take it a year to develop a Code amendment:

> "Ms. Santiago said that hopefully, with the success of the pilot project, and the

amount of material, they can see more of these smaller units being used in places like Tahoe Community College, thus further minimizing truck trips to the Carson Valley.

In regard to the code language, Ms. Santiago asked Mr. Marshall if he foresees an exemption to the language in order for the permitting to proceed, or would there have to be a language change to the code proposed by staff. **Mr. Marshall responded that they are pursuing this on two tracks. One is essentially lifting the moratorium for one particular application as a pilot project, and at the same time, doing a more in-depth analysis that will look at changing the language to the code.** So that would be when we would see a general lifting of the moratorium, either by modification or removal of that language.

Ms. Santiago asked how long it might take for a change to the code language and a general lifting of the moratorium. Dr. McIntyre replied that there is an opportunity to work with the California Tahoe Conservancy (CTC) who would be able to fund a grant for TRPA to fly an RFP [request for proposal] to do a more regional look at this type of technology and feasibility in the basin. She said they could expect to see a stakeholder engagement process, a communications plan, sideboards on what type of technology they're looking at in the basin, in terms of size, scale, location. **She would expect the whole process to take around one year.**" (2/22/23 Agenda pdf p 29)

If TRPA wants to allow biofuel facility (pilot) projects, the only legal way to do that is through a proper Code amendment, in the public forum and properly noticed, making true findings for public scrutiny to show that further research presented by TRPA (not a sole industry consultant) demonstrates the safety and environmental compatibility of such facilities for the Region, with supporting environmental documentation. Parameters are needed for what may actually be included in the "such" facilities description under the auspices of the research, left undefined in the Code other than the definition of "biofuel facilities" therein. Because a Code amendment is harder and may draw opposition (as at Kings Beach) TRPA will seek to slip this one by the law and limitations, as proposed. It's only 1.25 kW after all: that's the excuse to be scofflaws.

This proposed action is unsupported by anything in the law, however right or wrong the Project may be for the community. I don't know how far I want to drill down into this misfeasance at this time, citing your own Code at you and such, doing the analysis TRPA should be doing, when my efforts may be better preserved for an Appeal. The implications are clear: TRPA needs to stop the approval train for STR and read and follow the law, plain and simple. Your counsel can't be relied on to correctly interpret the law. The "pilot project" can't lead a Code amendment; that's not planning, that's just Permit processing. We don't know if or when a Code amendment will ever come to pass, or what may be contained in it. There will never be a basis to "grandfather" the proposed STR biofuels

facility as pre-existing under applicable law: it is not. I therefore urge TRPA to vote NO on the so-called lifting of the prohibition and get busy with the work of planning and presenting the Code amendment if that is what is demonstrably needed, desired and environmentally safe and beneficial.

On the Support Letters

The letter writing campaign deserves brief comment. First I am unaware of any outreach to the public on this matter by TRPA other than the one-line newspaper notice about it. I can see that the several support letters from interested agencies are inter-plagiarized somehow, all essentially saying the same things, making the same bullet points, weighing in with their support of the project. An astute reader will recognize this as a thinly-veiled, perhaps plausibly deniable, campaign for public support of its proposed illegal action, solicited and coached by TRPA. That's a pattern of sorts on the part of TRPA, while leaving out the general public, and deplorable to me. The letter signers are certainly welcome to express their opinions and desires, and I'm not doubting their sincerity. I don't expect them to know or understand TRPA's byzantine laws and the even more byzantine and arbitrary ways TRPA carries them out. I will simply say this letter campaign does nothing to change the law. Let the agencies support TRPA's Code amendment, if one is ever produced for approval that they agree with.

Predictions and Possibilities: An Open Letter to STR

This is all very reminiscent of the ongoing TRPA permitting mess with the industrial wireless macrotower on Ski Run Boulevard, in a scenic mixed-residential neighborhood, constructed illegally by Sac Wireless dba Verizon with TRPA aiding and abetting, and currently in litigation, times two, now by yours truly. The ignorant and shameful approval of toxic industrial microplastic waste discharges from the telecoms, among other things, must not stand. Now the public gets this STR proposal under the new Executive Director, who must surely know and consent to skirting the law under the lame justifications provided. No great start in my view, but hardly a surprise to me, and I suspect partly why she was chosen. Like runs with like. Calling it as I see it, and I really wish TRPA would follow your own laws, and reform your permitting processes too, as the recent report to the Governing Board attests is badly needed, with it mass of *ad hoc* interpretations and underground regulations.

I said above the TRPA is doing the STR no service here in pushing this project forward in the manner proposed. Since I suspect STR and its out-of-area consultant presumably know little of how the TRPA operates, this part is for STR, and comes out of my decades of experience with TRPA. You are being led down the garden path by well-meaning TRPA staff who either don't know or don't apply the laws and rules they are bound by. The only way to effectively challenge a decision of TRPA is in federal court, a fact which TRPA exploits.

TRPA is designed and operates in a manner designed to thwart and minimize public input in my opinion, especially in questionable matters such as here. This proposed action was released to the public without seeking meaningful public input, meeting legal noticing requirements (for a Code amendment?), if that, and little more. The public was given six days to comment, including a holiday weekend. This proposal was likely not presented to anyone outside the Committee meeting, including the Lake Tahoe Unified School District, to see if there were any concerns for their students or nearby campus, or to any nearby businesses and residents.

The decision taken today is subject to appeal, a process which TRPA charges its detractors over $1200 to engage in. Appeals are generally denied because the Governing Board believes it has infinite discretion to do anything it wants, and it almost always follows the staff direction and its counsel's advice. So after the appellant is rolled at a TRPA public hearing, the venue moves to federal court, with another $400 filing fee to initiate litigation, and other potential legal costs. Depending on the decision, an appeal up to the Supreme Court is possible.

While all that is potentially going on against TRPA, which TRPA alone must defend, TRPA will move ahead to issue a Permit in response to the application from STR, despite any legal challenge. I predict it will attempt this under a finding of no significant impact, and in total reliance on its proposed action here illegally lifting the prohibition as the basis for Permit issuance. It's just a claim TRPA can make, however specious in my view. Permit actions and Code exemptions are also subject to Appeal, and every Permit TRPA issues comes with this requirement for the Permittee:

> "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."

By the time the Permit is brought forward, the public will be more aware of this decision, and additional information will be presented. Controversies, concerns and grounds for Appeal of a Permit may arise, in addition to the administrative grounds cited herein. I can't predict whether the Permit will be appealed, but if it is, I predict any appeal will be denied by TRPA, thereby again setting the stage for federal litigation, potentially to the Supreme Court of the U.S.: TRPA and STR's case will rest largely on the illegal action being proposed here.

This is how the system works and what STR is eventually signing on for: to defend TRPA's illegal decision to the bitter end in federal court. In my view this regulatory set-up incentivizes TRPA to frequently venture out on shaky legal ground because, no matter what, the Permittee pays in the end. If TRPA prevails in court, the STR can build the facility. In the meantime, TRPA may or may not adopt an amendment to the Code for biofuels facilities. If it does, by putting the cart before the horse, and applying for a Permit illegally because TRPA opines it is okay (which only a judge can decide), the STR owners will likely not be covered by such amendment, because TRPA and it couldn't wait to amend the Code before applying for or issuing the Permit. My advice is for STR to consult an attorney knowledgeable in the TRPA laws and practices and reconsider its request for this TRPA action to "lift" the prohibition for the Project at this time.

Please Vote "No" on the lifting of the Code prohibition for STR, which is arbitrary and capricious and not in accordance with law. I request to be notified pursuant to ROP section 2.14 of proposed TRPA actions with regard to any new biofuels facility, including but not limited to STR, or any planned Code amendment related to biofuel facilities. Thank you for considering these comments.