

**TRPA
APC
PACKETS**

**APRIL
1983**

April 1983

TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION

The Chateau, 995 Fairway Boulevard
Incline Village, Nevada

April 13, 1983 9:30 a.m.
April 14, 1983 10:00 a.m.

PRELIMINARY AGENDA

- I CALL TO ORDER AND DETERMINATION OF QUORUM - ANNOUNCEMENT - INTRO'S }
GARY MIDRIFF }
- II APPROVAL OF AGENDA
- III DISPOSITION OF MINUTES
- IV PUBLIC HEARING (9:30 - 5:00 p.m. April 13)
Continued Public Hearing on the Regional Plan Environmental Impact Statement
- V SPECIAL REPORT (Estimated Time 10:00 a.m. April 14)
Request by Applicant for APC Comments, Galena Ski Resort, Mt. Rose/Slide Mountain Summit, Washoe County
- VI ENVIRONMENTAL IMPACT STATEMENTS, DETERMINATION OF TECHNICAL ADEQUACY (Estimated Time 10:30 a.m. April 14)
- A. Proposed Amendments to the Subdivision of Brockway Springs of Tahoe, Pursuant to Settlement of Litigation, Placer County
- B. Round Hill Village, Douglas County } MOVE TO 1ST ITEM
- C. Evaluation of Technical Adequacy of Environmental Impact Statement for Amendments to the Regional Plan
- VII ADMINISTRATIVE MATTERS
- VIII APPEALS
Bambridge/Fleming Appeal of Staff Determination of a High Risk Rating with Regard to the Case-by-Case Lot Review Criteria, Lot 60, Tyrolia #7, Washoe County, APN 126-082-44, TRPA File #82912
- IX REPORTS
- A. Distribution of Draft Environmental Impact Statements
1. Lake Parkway (Loop Road) Completion
2. Third Street and South Avenue Extensions and Improvements
- B. Report on TRPA Public Hearings on Regional Plan Environmental Impact Statement
- C. Public Interest Comments

D. APC Members

X RESOLUTIONS

A. Lois Shellhammer

B. Maurice Bidart

C. Dennis Schlumpf

D. Other

XI CORRESPONDENCE

XII PENDING MATTERS

XIII ADJOURNMENT

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TAHOE REGIONAL PLANNING AGENCY
ADVISORY PLANNING COMMISSION

TRPA Office, 2155 South Avenue
South Lake Tahoe California

February 9, 1983
9:30 a.m.

I CALL TO ORDER AND DETERMINATION OF QUORUM

Chairman Mike Harper called the meeting of the Advisory Planning Commission to order at 9:45 a.m.

APC Members Present: Mr. Renz, Mr. Sullivan, Ms. Bogush, Mr. McMullen,
Mr. Smith, Ms. Sparbel, Mr. Sawyer, Mr. Rosse, Mr. Pyle
Ms. McMorris, Mr. Randolph, Mr. Harper

APC Members Absent: Mr. Raper, Mr. Combs, Mr. Schlumpf, Mr. Bidart,
Mr. Hansen, Ms. Shellhammer

Mr. Harper noted that Mr. Schlumpf's, Mr. Bidart's and Mr. Hansen's terms had expired in January. The Governing Board would consider appointments and or reappointments at their February meeting.

Mr. Harper welcomed Mr. Verne Rosse serving as Mr. Lew Dodgion's alternate.

II APPROVAL OF THE AGENDA

Phil Overeynder, Executive Director stated that the applicant requested agenda Item V A. Deal/Soeller, Appeal of Staff Decision to Reject Application for a New Multiple Use Pier be continued for 30 days.

MOTION by Mr. Randolph, with a second by Mr. Sawyer, to approve the agenda as amended. The motion carried unanimously.

III DISPOSITION OF MINUTES

Ms. Bogush stated that on page 1, Mr. McMullen was incorrectly introduced at last month's APC meeting as representing the Tahoe Transportation District. Mr. Overeynder clarified the direction of the Governing Board was to have better communication with the Tahoe Transportation District by appointing a member from either the Transportation District board or the Technical Advisory Committee. Mr. McMullen is therefore representing the Governing Board.

Mr. Randolph clarified that on page 10, pertaining to the U.S. Postal Service Action Plan, his vote was not against the Action Plan, but rather a vote against going back to ground zero.

MOTION by Mr. Pyle, with a second by Mr. Sullivan, to approve the minutes as amended. The motion carried unanimously.

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IV ADMINISTRATIVE MATTERS

A. Election of Chairman and Vice Chairman

Mr. Overeynder conducted this portion of the meeting, asking for nominations for chairman. Ms. Sparbel nominated Mr. Harper for chairman, with a second by Mr. Smith. No discussion followed the nomination.

MOTION by Mr. Pyle, with a second by Mr. Renz, that the nominations be closed.

Ayes: Mr. Renz, Mr. Sullivan, Ms. Bogush, Mr. McMullen, Mr. Smith,
Ms. Sparbel, Mr. Sawyer, Mr. Rosse, Mr. Pyle, Ms. McMorris,
Mr. Randolph

Nayes: None

Abstain: Mr. Harper

Absent: Mr. Raper, Mr. Combs, Mr. Schlumpf, Mr. Bidart, Mr. Hansen,
Ms. Shellhammer

Ms. McMorris nominated Ms. Bogush for vice chairman, with a second by Mr. Harper. There was no discussion following the nomination.

MOTION by Mr. McMullen, with a second by Mr. Sawyer, that the nominations be closed.

Ayes: Mr. Renz, Mr. Sullivan, Mr. McMullen, Mr. Smith, Ms. Sparbel,
Mr. Sawyer, Mr. Rosse, Mr. Pyle, Ms. McMorris, Mr. Randolph,
Mr. Harper

Nayes: None

Abstain: Ms. Bogush

Absent: Mr. Raper, Mr. Combs, Mr. Schlumpf, Mr. Bidart, Mr. Hansen,
Ms. Shellhammer

MOTION by Mr. Smith, with a second by Mr. Sullivan, to prepare a resolution for Mr. Randolph thanking him for serving as vice chairman. The motion carried unanimously.

B. APC Recommendations to the Governing Board

Mr. Overeynder stated this item had been placed on the agenda, at Mr. Harper's request, to discuss the role of the APC recommendations and how they would be transmitted to the Governing Board. The new Governing Board chairman, Jim Reed provided a letter to Mr. Overeynder and members of the Governing Body, as well as to Mr. Harper, indicating his recommendations for a procedure to formalize the APC's role pertaining to project and planning matters. Mr. Overeynder further stated this would be a joint responsibility between the Agency staff and the APC members to transmit information through the chairman, or other members of the board, and the Executive Director's responsibility to insure the staff summaries and reports refer explicitly to the action of the APC, along with what the majority and or minority view(s) were in each case.

Mr. Harper stated he had the opportunity to discuss this matter with Mr. Reed who indicated he would like to see the APC's input be considered and recognized by the Governing Body. Mr. Harper further stated he did not think it necessary for the APC chairman, vice chairman, or APC members attend every TRPA Governing Board meeting in order to present the APC's position, but there should be a procedure to confirm and transmit the actual statements presented by the APC members to the Governing Board. On major items of concern, the chairman or vice chairman should appear before the Governing Board since it is important to have that opportunity to voice the recommendations of the APC's majority and minority positions.

Mr. Sawyer commented that where it is appropriate, the chairman be present or designate an APC member to prepare a report on the APC's position and have a majority/minority report which in turn would be a part of the Governing Board packet. He also suggested that staff prepare the report, but it should be left to the chairman's judgement when this should be done. Mr. Sawyer further commented that consideration should be given to have one APC member take the lead on reviewing the report and to have the chairman sign it. Mr. Harper stated he had no objection to this procedure, but since there were time constraints and driving distances to be considered, he suggested that Ms. Bogush could sign the necessary reports on his behalf. Mr. Overeynder explained that in order to meet the deadlines for the Governing Board mailing, which is usually on the same day as the APC meeting, staff has a minimal amount of time to incorporate that information in the packet. When there are joint items on the APC and Governing Board agendas, an attempt is made to coordinate the information, recommendations, and actions of the APC members but the practical implications of getting a signature would be somewhat difficult. It was suggested and agreed that when there is a major item of concern, a supplement to the Governing Board packet would be mailed separately. Ms. Bogush suggested where the Regional Plan is concerned, separate reports should be done. Mr. Harper noted this was done when the thresholds were being considered and felt it would be appropriate to prepare a supplemental report for the Regional Plan. Mr. Harper suggested that the APC members who live and work in South Lake Tahoe form an informal committee to review the routine staff summaries/reports to be discussed prior to the Governing Board meeting. Mr. Smith volunteered and Ms. Bogush, Mr. Renz, and Ms. McMorris were selected for this committee.

V APPEALS

- A. Deal/Soeller, Appeal of Staff Decision to Reject Application for a New Multiple Use Pier, Washoe County, APN 123-250-03 and APN 123-250-04, TRPA File #82331

This item was deferred for thirty days at the request of the applicant.

As part of the informal policy the APC members discussed and agreed upon at a previous meeting, an applicant can request one continuance, choosing a convenient date when the applicant/representative could be present at the APC meeting. The project would be scheduled for that date and, whether or not the applicant/representative is present at the meeting, the project would be heard for recommendations of the APC.

VI PLANNING MATTERS

A. Dillingham Commercial Project Environmental Impact Statement,
Determination of Technical Adequacy, City of South Lake Tahoe

Greg George, Chief of Project Review, stated the EIS had been handed out to the APC at their January, 1983 meeting. The document was made available for circulation on December 15, 1982 and the required 60 day circulation period would end on February 14, 1983. The EIS will be placed on the February Governing Board agenda for consideration of certification.

Mr. Randolph asked if the number of daily vehicle trips indicated in the EIS for the facility were consistent with the vehicle trips estimated in the Postal Service Action Plan. Dale Neiman, Senior Planner, responded the Action Plan did not evaluate trip reductions for the different alternatives. The figures are only estimates, but once the proposed Postal Service projects occur within the next three months, an evaluation to determine the reductions will be done at that time. The Dillingham EIS was reviewed with and without the postal facility being located there. The decision to locate the postal facility in the shopping center will be made by the Postal Service and the local agencies sometime in the future. Mr. George stated that an independent vehicle trip analysis was done by John Glab which evaluated the service area for the postal facility and calculated trips based on that information.

Mr. Sawyer commented on the man modified stream environment zone questions discussed in the EIS on pages II-46 and II-47, and indicated a need for a thorough analysis to respond to these questions with clear recommendations for the Governing Board. Referring to question number 3, is the TRPA Resolution 81-7 fee of \$18,226 based on erosion control applicable and is it in addition to or included in the \$117,000 fee? Mr. Sawyer stated that from the standpoint of the Lahontan Board the TRPA mitigation fee has to be in addition to the stream zone mitigation fee. Mr. Sawyer further stated that in the case of the Tahoe Keys, the TRPA mitigation fee came out of the stream zone mitigation fee; whereas the resolution for the Dillingham project clearly states the TRPA mitigation fee is in addition to the stream zone fee. What happened on the Tahoe Keys was not what the Lahontan Board intended, and with this resolution, they tried to make sure the same mistake wasn't made again.

Mr. Sawyer asked why the coverage analysis pertaining to lot by lot coverage did not address the watershed association in the EIS. Mr. George responded that during the timeframe the Regional Plan was being developed, the Governing Board has directed projects requiring an EIS be prepared with comparative analysis with the thresholds. Under the current ordinance regulations, staff can only evaluate parcel by parcel land coverage restrictions until the ordinance is possibly modified through the adoption of the Regional Plan. Mr. Sawyer commented if this watershed was not under coverage on land capability 4-7 it should be addressed. Mr. Overeynder responded that research has been done on the situation both within that planning area covering the whole Tahoe Keys area as well as the watershed association. It appears that within the planning area, land capability class 6 is the redesignated classification and it is under coverage in that entire area as well as through the watershed association.

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Mr. George stated that officially the Agency has not recognized the area as anything but a 1b land capability. It is difficult to put this project into a category that is easily assessed since this is a unique situation. The allowable land coverage for this particular parcel is 30% but has been set by the litigation settlement to go up to 35%. The additional coverage will have to be transferred from other parcels in the area owned by Dillingham.

Mr. Sawyer pointed out that the words "Water Quality" on page I-98 should read "Water Quantity".

Ms. McMorris commented the traffic section in the EIS appeared valid and the area may see a possible reduction in vehicle trips.

Mr. Sawyer asked if the proposed shallow well to serve the area would be metered and, if not, suggested it should be. Mr. Sawyer explained the State of California does not issue a permit for every well but does keep track of the total water usage to make sure that it does not exceed the allocations of the California-Nevada Interstate Compact. Mr. Sawyer also asked if there were plans to meter the indoor or domestic water use.

Jere Williams, Consulting Engineer, responded that to his knowledge there are no specific plans to meter the domestic water but he would comply with the requirements of the Tahoe Keys Water Company. Mr. Williams stated they meter the water only at the wells and the details pertaining to the well have not been specifically proposed. Mr. Sawyer stated the reason he raised this point is because the Tahoe Keys area has the highest rate of water use in the Tahoe Basin and the issue of a water conservation program will have to be addressed in an EIR and EIS on well water for the Tahoe Keys Water Company.

Mr. Smith asked if it wouldn't be just as well to use an electrical pump meter and utilize the electric bill to measure how much water is pumped, rather than a water meter on the well. Mr. Sawyer responded electrical utility rates were used in a report on Water Rights and Water Use in the Lake Tahoe Basin and the engineers felt it was not as good a measure as metering the wells.

Mr. Pyle noted that on page II-55, pertaining to terminology, use of native plant species for landscaping is a misnomer. He also asked why is the well system for irrigation of landscaped areas needed since the plant species established in the Basin over the last 30 years are selections of some of the native species and use of native species plants requiring low water are available. He suggested there may be better solutions to stabilization than with high water use plants and lawns. Mr. Williams responded that one of the mitigation measures listed in the EIS is to get an approved landscape plan. There are several aspects to the plan and low water use plants, although not mentioned, should have been.

Mr. Williams stated with respect to the well, the monitoring of the electrical use adds another variable to the accuracy and he would definitely recommend to the applicant that a meter be put on the well.

MOTION by Mr. Sawyer, with a second by Mr. Pyle, certifying a finding that the Environmental Impact Statement for the Dillingham Convenience Center is technically adequate and directed staff to prepare an analysis with recommendations to the questions of the man modified stream environment zones. In addition, the comments concerning the type of vegetation and metering of the well be included in the document.

Discussion on the motion followed. Mr. Overeynder stated that the questions pertaining to the man-modified stream environment zones would be addressed through the project review process. The intent of this document was to disclose the environmental impacts and the alternative mitigation measures. It would be appropriate to indicate what the preferred alternative would be, but it would not be appropriate for staff to recommend what should be done.

Ms. Bogush asked if these additions were more relevant to the project review stage or should it be included in the EIS as part of the determination for the technical adequacy. Mr. Sawyer stated that both the federal CEQ regulations on federal EIS's and the State Resources Agency regulations on CEQA EIR's call for environmental documents to designate the staff or the Agency's preferred alternative and the environmentally preferable alternative. Mr. Sawyer suggested the recommendations should be incorporated in the environmental documentation.

Ms. McMorris stated that the mitigation fee seemed extremely high for the 23,000 square feet of building proposed and suggested the TRPA fee be included in the \$117,000. Mr. Sawyer responded that the fee was based on the man-modification of the area, ~~reemphasizing~~ ^{emphasizing} damage that was done by modifying the stream zone was environmentally damaging to the Basin. Mr. Sawyer pointed out that extensive studies were prepared for the CTRPA which evaluated how much nitrogen is leaching from the soils as a result of this project. Mr. Sawyer also pointed out that this is an action taken pursuant to the Lake Tahoe Basin Water Quality Plan which is a state plan for the protection of the environment and the Agency cannot approve projects without making this finding.

Mr. Sawyer commented the impact statement suggests stream zone restoration instead of the mitigation fee. Speaking for the State Water Resources Control Board, restoration is looked at very carefully as the Board is not set on fees as the best way to deal with project mitigation. He further urged staff to follow through on recommendations for a specific mitigation program.

Mr. Smith stated, in regard to the State of California policy being imposed upon TRPA, there is some difference as far as the Agency reviewing environmental documents being tied into the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). Mr. Overeynder responded the statute that the Agency is operating under is neither NEPA or CEQA. However, this environmental document was prepared in satisfaction of the requirements of CEQA, since it is a California project, and Article VII Compact requirements for the preparation of an environmental impact statement. Mr. Sawyer further explained that in interpreting CEQA, California courts do consider the federal precedents under NEPA. With the TRPA environmental documentation requirements which are patterned after NEPA and CEQA, he stated it is a reasonable

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expectation when there is litigation involving the environmental documentation requirements of the Compact, the courts will look at how the ~~federal~~ courts deal with CEQA or NEPA. The TRPA is not bound to follow them, but there is a risk because the court might say what the federal court did under NEPA is quite reasonable and the TRPA should have done the same.

The motion carried on the following vote:

Ayes: Mr. Renz, Mr. Sullivan, Ms. Bogush, Mr. McMullen, Mr. Smith,
Ms. Sparbel, Mr. Sawyer, Mr. Rosse, Mr. Pyle, Ms. McMorris,
Mr. Randolph, Mr. Harper
Nayes: None
Abstain: None
Absent: Mr. Raper, Mr. Combs, Mr. Schlumpf, Mr. Bidart, Mr. Hansen,
Ms. Shellhammer

B. U.S. Postal Service, Action Plan for Mail Delivery

Mr. Harper thanked Ms. Bogush for her time preparing the information addressing the APC's concerns relating to the U.S. Postal Service Action Plan for mail delivery and her presentation to the Governing Board at their January meeting. Mr. Harper stated that the APC was not opposed to the concept of the U.S. Postal Service Action Plan and, if any harsh words appeared to be said at the last meeting, the statements were made without malice, since the APC's intentions and responsibility is to attempt to make this plan as effective as possible.

Dale Neiman, Senior Planner, stated he worked with Ms. Bogush and Ms. Dena Schwarte, U.S. Postal Service Consultant, along with assistance from Mr. Harper and Dick Milbrodt, City Manager to address the APC members and Governing Board's concerns with the responses outlined on Attachment B of the staff summary. Mr. Neiman also stated information on snow removal cost for Incline Village was prepared by Mr. Harper but was not included in the report. The cost estimate would be an increase of approximately \$700,000 per year to meet the Postal Service requirements, which averages out to about \$10,000 per mile of road.

Mr. Neiman clarified the wording of local government entities mentioned throughout the report refers to the City of South Lake Tahoe since the first three neighborhood delivery centers (NDC's) will be implemented in the City of South Lake Tahoe. Mr. Pyle suggested changing the wording to affected local governmental entities.

Ms. Bogush stated that she consulted with Glenn Smith, Stan Randolph, Andy Sawyer, and Mike Harper as to how the APC's comments should be addressed. The consensus of the subcommittee and the Governing Board was that the existing data be used. Ms. Bogush pointed out that the addendum was based on existing data.

Mr. Sawyer stated that a federal agency is not required under federal law to obtain any building permits, but a federal agency is required to comply with local regulations for protection of air and water quality which would apply to the Postal Service. Mr. Smith clarified that Executive Order 12088 covers air and water quality and noise. Mr. Neiman stated the Postal Service would be

required to obtain a building permit for any project in the Basin based on the Clean Water Act, Clean Air Act, and the TRPA Compact. The Postal Service agrees with this requirement, however, they do not agree that they should be subject to permits at the local level as these permits do not implement the program under the Air Quality Plan. The Postal Service has informed staff that it is their position they will not get a local building or use permit from the city or county, but they will obtain a permit from TRPA, and are willing to work with the local entities on this issue. Mr. Neiman further stated it was his understanding, when discussing this issue with the Postal Service's attorney, the reason they do not want to get a permit from the local entities is because they want to protect their rights under federal law. Mr. Sawyer stated the Clean Water Act is absolutely clear and the requirement to obey the local water quality laws has nothing to do with 208 planning; all it has to do is meet the local water quality regulations. If there is a local water quality ordinance then the local officials should state to what extent their ordinances protect water quality. The Postal Service or any federal agency is then required to comply with that law. Mr. Smith commented that point of a building or use permit addressed by Mr. Neiman is different than what the federal government recognizes as their responsibility under air, water and noise standards, both from the standpoint of federal legislation and the Executive Order. Mr. Sawyer stated that local building permits may or may not be affecting water quality, but if local government takes the position, especially through a finding in their ordinances that one of the ways to implement the water quality ordinance is through a building permit, then that building permit is a water quality regulation. Mr. Neiman responded that what Mr. Sawyer stated is correct if the local governments have permits that would implement the air quality plan, they could attempt to require the Postal Service obtain a permit.

Ms. Dena Schwarte, Consultant for the Postal Service, commented that she did not have a conversation with the same attorney, but has been directed by the project manager of the Postal Service to process the use permits through the City of South Lake Tahoe for the main postal facility and she is presently waiting for the appropriate signatures on the application. Mr. Neiman stated that both he and Ms. Schwarte have been working with the local postmaster and a number of people at the district level in Sacramento and the regional level in San Francisco, and there seemed to be a conflict with what he had been told by one attorney and what Ms. Schwarte had been directed to do.

Mr. Harper pointed out that the TRPA ordinance states before the Agency will issue a permit that the applicant must receive the appropriate permits from the local entities. Washoe County has an ordinance which specifically states public uses on public lands shall obtain a special use permit, and this particular type of project will require a special use permit. Mr. Harper stated he did not understand why the Postal Service felt they were protecting their rights under federal law, and asked how the legal problem could be resolved. Mr. Overeynder responded that Mr. Sawyer outlined the legal requirements as well as anyone, but Agency staff would have to determine whether or not there was, in fact, some consideration in the special use permit for either air quality, water quality, or noise. If there was, there would be a valid basis for enforcing that condition. If there was not a valid basis, then the Agency would abide with the law which says to the extent those are not factors, the local permit would not be necessary.

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Mr. Randolph commented the staff is requesting approval as an implementing element of the Agency Air Quality Plan and from what Mr. Sawyer stated, it seems that if those words are added, there isn't any option and the Postal Service will have to obtain a use permit.

Ms. McMorris suggested that staff add a condition that the Agency will not grant a permit to the Postal Service without concurrence from the local government. Mr. Renz stated from Douglas County's point of view, it is important the Postal Service get a special use permit since the concern for air and water quality is mitigated. Mr. Renz further stated that Douglas County's ordinance does not list specifically air and water quality, but the conditions are listed under the special use permit.

Mr. McMullen suggested phrasing the condition that the Postal Service be required to obtain all necessary permits, which allows some flexibility at both the local government level as well as TRPA's point of view to determine what is necessary. Mr. Pyle suggested adding the wording "as stated in Executive Order 12088 as it pertains to air, water, or noise".

Mr. Smith stated there is a concept called "Supremacy of Government". The state rules over counties and cities; the federal government rules over states and no federal agency or executive branch of the federal government has any prerogative to give up any of its legal constraints and its authorities to any lessor government. All federal employees must protect those federal interests. They can not give in where it is not legally binding upon them to do so. Mr. Smith explained this is a part of federal government and cooperation has been demonstrated effectively in the Basin by the federal government.

Ms. Schwarte stated that the Postal Service has attempted to amend past events that have occurred and asked the APC members recognize the spirit of cooperation being demonstrated with the CTRPA, TRPA, the City of South Lake Tahoe, and all the county governments.

Mr. Harper suggested that, in the spirit of cooperation and to alleviate staff time, the Postal Service pursue obtaining the local use permits to help identify items and issues of concern for acceptable mitigation measures.

Mr. Smith stated there is a federal provision for informing and getting input from local and state agencies called A-95. TRPA being a regional clearinghouse in which any federal project having an affect in this area is brought before the Governing Body receives comments from representatives of the counties, the City of South Lake Tahoe, as well as other agencies. That is the approach for participation with local governments on federal projects.

Mr. Sawyer suggested if the recommendation to include Executive Order 12088 is approved as a condition, that Section 311 of the Clean Water Act also be included. Or to state that under federal law that a federal agency is not required to obtain any building permit except to the extent those permits implement local programs for air quality, water quality and noise.