

**TRPA
GOVERNING BOARD
PACKETS**

**FEBRUARY
1989**

TAHOE REGIONAL PLANNING AGENCY

195 U.S. Highway 50
Round Hill, Zephyr Cove, NV

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038

(702) 588-4547

2-89 Gov Bd.

NOTICE OF ADDITION TO AGENDA

NOTICE IS HEREBY GIVEN that the following Project Review item should be added to the official agenda for the February 22, 23, 1989 Governing Board meeting of the Tahoe Regional Planning Agency:

VI PROJECT REVIEW

- B. Sierra Pacific Power Company, Roundhill Substation to Stateline Substation 120 kV Transmission Line

February 15, 1989

By:

W.A. Morgan

William A. Morgan
Executive Director

TAHOE REGIONAL PLANNING AGENCY
NOTICE OF MEETINGS

NOTICE IS HEREBY GIVEN that on February 22, 1989, commencing at 9:30 a.m., and on February 23, 1989 commencing at 8:30 a.m., at the TRPA office, 195 U.S. Highway 50, Round Hill, Zephyr Cove, Nevada, the Governing Board of the Tahoe Regional Planning Agency will conduct its regular meeting. The official agenda is attached hereto and made a part of this notice.

NOTICE IS FURTHER GIVEN that on February 22, 1989, at 8:30 a.m., in the same location, the Finance Committee of said agency will meet to discuss receipt of the December financial statement, a request by El Dorado County for Local Transportation Funds, and revisions to the FY 88-89 operating budget.

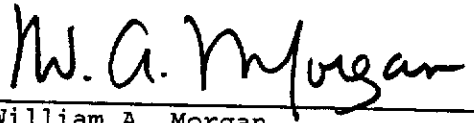
NOTICE IS FURTHER GIVEN that on February 22, 1989, at 9:00 a.m. in the same location, the Legal Committee will meet to discuss the redevelopment agreement (Agreement in Lieu of Litigation) regarding South Lake Tahoe Redevelopment Plan for Project Area No. 1.

NOTICE IS FURTHER GIVEN that on February 22, 1989, during the lunch recess, the Rules Committee will meet to discuss the revision of the Agency's Rules of Procedure relating to environmental documentation.

NOTICE IS FURTHER GIVEN that on February 22, 1989, at 9:00 a.m. the Retirement Committee will meet to act on disbursement of retirement funds to former employees (George, Jones, Majers).

Date: February 15, 1989

By:



William A. Morgan
Executive Director

NOTE: Items on the agenda without a time designation may not necessarily be considered in the order in which they appear on the agenda.

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BODY

TRPA Office 195 U.S. Highway 50
Zephyr Cove, Round Hill, Nevada

February 22, 1989 9:30 a.m.
February 23, 1989 8:30 a.m.

OFFICIAL AGENDA

- I PLEDGE OF ALLEGIANCE
- II ROLL CALL AND DETERMINATION OF QUORUM
- III APPROVAL OF MINUTES
- IV APPROVAL OF AGENDA
- V CONSENT CALENDAR (see last page)
- VI PROJECT REVIEW
 - A. Regan Beach West, Rehabilitation and Erosion Control, Special Use Determination, Shoreline Protective Structure, City of South Lake Tahoe, APN 26-022-16 and -17, El Dorado County
- VII APPEAL
 - A. Victor Metas, Appeal of Staff Determination on Fish Habitat, 6010 North Lake Boulevard, APN 117-020-20 - continued to the March 22 meeting
- VIII PUBLIC HEARING AND ADOPTION OF ORDINANCES/RESOLUTIONS
 - A. Unmet Transit Needs in the Unincorporated Portion of El Dorado County
- IX PLANNING MATTERS
 - A. Partial Issuance of 1989 Allocations in South Lake Tahoe and El Dorado County Within South Tahoe Public Utility District - continued to the March 22 meeting
 - B. Certification of the Final EIS - Sierra Pacific Power Company Roundhill Substation to Stateline Substation 120 kV Transmission Line
 - C. Status Report on Redevelopment Plan for the City of South Lake Tahoe, Related Amendments of the Regional Plan Overlay Maps (PASs 089B, 091, and 092 and 093), the Redevelopment Agreement (Agreement in Lieu of Litigation) and the EIR/EIS
 - D. Report on Tahoe Research Group's Water Year 1987 Report

X ADMINISTRATIVE MATTERS

- A. Advisory Planning Commission Appointments - Lay Member Representing the Soil Conservation Service and Two California Lay Members

XI REPORTS

- A. Finance Committee Report and Board Action on Recommendations
 - 1. Receipt of the January Financial Statement
 - 2. Approval of FY 88-89 Operating Budget Revisions
 - 3. El Dorado County, Request for Local Transportation Funds
 - a. Summer Beach Bus and TART Connection (\$15,000)
 - b. Road Maintenance Projects (\$392,844)
- B. Status Report on Shorezone Fish Habitat Study
- C. Executive Director
 - 1. Status Report on Projects Reviewed at Staff Level and on Emergency Permits Issued by Executive Director
 - 2. Status Report and Board Action, If Necessary, on Code Interpretations Made by Executive Director
 - 3. Other
- D. Agency Counsel
- E. Governing Board Members

XII PUBLIC INTEREST COMMENTS

XIII ADJOURNMENT

CONSENT CALENDAR

<u>Item</u>	<u>Recommended Action</u>
1. Marelich Construction Company, Resolution of Enforcement Matter, APN 125-141-27, Washoe County	Approval
2. Mein Trust, Resolution of Enforcement Matter, APN 83-162-31, Placer County	Approval
3. Dale, New Residential Pier, 731 Lakeview Avenue, APN 26-021-09, El Dorado County	Approval with findings and conditions
4. Khashoggi, Pier Relocation and Expansion, 1494 Highway 50, APN 03-050-01, Douglas County	Approval with findings

These consent calendar items are expected to be routine and noncontroversial. They will be acted upon by the Governing Board at one time without discussion. If any Governing Board member or noticed affected property owner requests that an item be removed from the consent calendar, it will be taken up separately under the appropriate agenda category.

Four of the members of the governing body from each State constitute a quorum for the transaction of the business of the agency. The voting procedure shall be as follows:

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each State agreeing with the vote of at least four members of the other State shall be required to take action. If there is no vote of at least four of the members from one State agreeing with the vote of at least four of the members of the other State on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.

(2) For approving a project, the affirmative vote of at least five members from the State in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the State in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

TAHOE REGIONAL PLANNING AGENCY

195 U.S. Highway 50
Round Hill, Zephyr Cove, NV

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038

(702) 588-4547

MEMORANDUM

February 7, 1989

To: TRPA Governing Board

From: Environmental Compliance Division

Subject: Marelich Construction Company, Settlement of Enforcement Action,
APN 125-141-27, Washoe County

Based upon the following summary and attached report, staff recommends that the Governing Board accept a negotiated settlement between Marelich Construction Company and Tahoe Regional Planning Agency.

The Notice of Violation (Exhibit A) references failure to request and obtain a pre-grading inspection, grading after October 15, unpermitted removal of two trees, and excessive grading not related to the project. Evidence shown at a settlement conference indicated that the two trees, while shown on the project plot plan to be live, may have been dead when they were removed. Temporary erosion control has been placed around the area on which the excessive grading took place.

The violations occurred at 424 Valerie Court, APN 125-141-27, Washoe County, Nevada. A new single family dwelling was permitted on the parcel on August 15, 1988. TRPA Code of Ordinances, Subsections 8.2.A, 64.2, and 64.7.C were violated by this activity.

A proposed settlement has been reached in this matter (Exhibit B) consisting of a total fine in lieu of civil litigation of four thousand dollars. This figure was calculated from the "Guide For Fines" matrix (Exhibit C), as follows:

The Nature of the Violation was determined to be Gross Negligence while the Degree of Violation, due to a combination of activities, was determined to fall in the Prohibited Activity category between a Major and a Minor Violation.

The four thousand dollar fine would consist of one thousand dollars paid to TRPA and three thousand dollars in water quality improvement work completed for a public service entity. TRPA staff is currently looking at approved, though underfunded, projects by public service entities in Washoe County for inclusion in the settlement agreement. Under this settlement the graded area would be restored by planting native trees and grasses.

By approving this settlement, the Governing Board will also be cancelling the tentatively scheduled Show Cause Hearing before said Board.

SC:sd
2-8-89

CONSENT CALENDAR ITEM 1

TAHOE REGIONAL PLANNING AGENCY

195 U.S. Highway 50
and Hill, Zephyr Cove, NV

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038

(702) 588-4547

CERTIFIED MAIL # P 669 331 301
RETURN RECEIPT REQUESTED

January 6, 1988

Marelích Construction Co.
P. O. Box 5468
Incline Village, NV 89450

Subject: Notice of Violation and Violation Report,
APN 125-141-27

Dear Mr. Marelích:

This Notice of Violation and Violation Report is issued on the grounds that the Tahoe Regional Planning Agency (TRPA) Code of Ordinances and standard conditions of the TRPA new single family dwelling permit, dated August 12, 1988, have been violated. Standard conditions and ordinances violated were the requirement to have TRPA inspect and verify that pre-grading conditions of approval had been met, the requirement to cease grading activities after October 15, the removal of trees not permitted for removal, and excessive grading not related to the project.

Chapter IX of the TRPA Rules of Procedure (enclosed) outlines a procedure for resolving violations of the Tahoe Regional Planning Compact, Regional Plan, or TRPA permits. This involves notices of violation and violation reports. The content of these items is specified in the Rules and is explained below for your reference.

Section 9.4 NOTICE OF VIOLATION AND VIOLATION REPORT

Nature of Violation

TRPA inspected the parcel on November 8, 1988 and found that grading had occurred very recently. Vegetation had been stripped from a large portion of the parcel and excavation had commenced. Grading after October 15 is prohibited by Section 64.2, TRPA Code. No pre-grade inspection had been conducted by TRPA staff which is a violation of Subsection 8.2.A, TRPA Code. Two trees, identified on the site plan as trees to be protected, had been removed, which is a violation of Section 71.2, TRPA Code. Grading in excess of that necessary to construct the structure and also not indicated on the approved plans had occurred, which is a violation of Subsection 64.7.C, TRPA Code.

Correction of the Violation

The intent of the Rules of Procedure, Article IX, is to promote resolution of violations at the administrative level. In keeping with that intent, the resolution section of this letter includes a proposed settlement.

Cease and Desist Order

A CEASE AND DESIST ORDER was posted on the project site on November 8, 1988 by Ed Skudlarek. The CEASE AND DESIST ORDER remains in effect.

Show Cause Hearing

A Show Cause Hearing before the TRPA Governing Board will be scheduled for the February 22 and 23, 1989 Governing Board meeting.

Section 9.6 VIOLATION REPORT

(a) Noticed Party

Dave Marelích
Marelích Construction Co.
P. O. Box 5468
Incline Village, NV 89450

(b) Provisions of the Tahoe Regional Planning Compact and the Regional Plan Package Violated:

Article VI(b), Tahoe Regional Planning Compact, P.L. 96-551,
94 Stat. 3233 (1980)

Code of Ordinances, Subsections 8.2.A, 64.2, 64.7.C, and 71.2
(copies enclosed)

(c) Statement of Facts

The TRPA was notified on November 7, 1988 that grading was occurring on the subject parcel. A check of our records produced a TRPA permit which was issued August 12, 1988, and acknowledged by TRPA on September 29, 1988. The records did not indicate that a pre-grade inspection had been performed.

The project site was inspected by Ed Skudlarek on November 8, 1988. Vegetation had been stripped from a large portion of the parcel and excavation had commenced. The approved site plans were consulted and it was noted that the disturbance was greater than that necessary for the permitted project. Graded top soil had been pushed into the back corner of the parcel, adjacent to the dwelling on the adjoining parcel. Temporary erosion controls were not in place in this area. The disturbed areas had not been winterized. Two trees, which were not approved on the site plan for removal, had been removed.

(d) Documentary Evidence

Documentary evidence (photographs) is in TRPA's possession and copies will be provided upon request or may be reviewed at TRPA's offices.

(e) Proposed Resolution of Enforcement Action

The proposed resolution is:

1. Remittance to TRPA the sum of \$5,000 as a penalty in lieu of civil litigation. (This figure is calculated from the enclosed "Guide for Fines".)
2. Replacement of the trees removed (two total) at a ratio of three seedlings per tree. A total of six (6) tree seedlings from the enclosed "TRPA Plant Species Recommendations" must be planted.
3. Restoration of the topography disturbed at the back of the parcel and beyond the project area. Seed this area with an erosion control plant seed mix and apply straw mulch. Extend the temporary erosion control fence below this area.

(f) Governing Board Show Cause Hearing

A Show Cause Hearing before the TRPA Governing Board is scheduled for February 22 and 23, 1989. The meeting commences at 9:30 a.m. and the hearing is not set for a certain time. A resolution of the violation prior to that date will cause the Show Cause Hearing to be cancelled. Board action (as a consent calendar item) may be necessary to ratify a settlement of the violation. If you decide to pursue a settlement of the violation and a waiver of the statute of limitations, as outlined below, is received by TRPA, the Show Cause hearing will be stayed pending the outcome of the settlement efforts. Settlement of this matter, by acceptance of the above-proposed resolution or an alternative proposal agreed upon by the parties, is the preferred option.

(g) Response Date

A response to this notice must be received by TRPA no later than 5:00 p.m., January 30, 1989. (See Section 9.9 of the Rules of Procedure for the contents of a response.)

Marelch Construction
January 6, 1989
Page Four

Section 9.10 ELECTION TO PURSUE SETTLEMENT

If the responding party wishes to pursue settlement of the enforcement action, the response to the notice of violation shall contain an express waiver of the statute of limitations in Article VI(j)(4) of the Compact, and acknowledgement that the Show Cause Hearing procedure will be stayed pending the outcome of settlement efforts, and an agreement to comply with the terms of any pending CEASE AND DESIST ORDER. Waiver of the statute of limitations shall be for a definite period of time, but not less than an additional sixty (60) calendar days. An election to pursue settlement shall not relieve the responding party of the requirement to comply with Section 9.9 of these Rules in the event settlement is discontinued.

For your convenience, a waiver form is attached. The waiver must not be for less than an additional sixty calendar days. The statute of limitations in Article VI(j)(4) of the Compact is sixty-five days, therefore the waiver must be effective, at a minimum, up to and including May 11, 1989 (a period of one hundred and twenty-five days from the date of service of this notice) .

Please contact me if you have any questions on this matter.

Sincerely,



Ed Skudlarek
Environmental Specialist II

ES:sd

Enclosures: Waiver of Statute of Limitations
Public Law 96-551; Tahoe Regional Planning Compact
Article IX - Compliance Procedures, Rules of Procedure
Guide for Fines
Subsections 8.2.A, 64.2, 64.7, 71.2; TRPA Code of Ordinances
TRPA Plant Species Recommendations

cc: Washoe County Building Department
William A. Morgan, TRPA
Susan Scholley, TRPA

1989-0296
RECEIVED

FEB 0 9 1989

TAHOE REGIONAL
PLANNING AGENCY

TAHOE BASIN BUILDING PERMIT
CONSULTING SERVICE
a division of
HILLS CONSTRUCTION
General Building Contactor
Lic # 497390
Box 35
Crystal Bay, Nevada 89402
tel: (702) 831-3187 - (916) 546-4320

February 7, 1989

Mr. Ed. Skudlarek
Tahoe Regional Planning Agency
P.O. Box 1038
Zephyr Cove, Nevada 89448-1038

re: Memorandum of agreed resolution to Notice of Violation- APN
125-141-27 to Dave Marelich.

Dear Mr. Skudlarek:

We agree to your proposed resolution to the above referenced
violation as follows:

1. \$1000.00 to be paid at the rate of \$200/month beginning March 1,
1989 and continuing through and including July 1, 1989 the last
payment.
2. \$3000.00 worth of public service work as proposed by the TRPA.
Tentatively it might be at the Incline High School. In any event the
work proposed shall be local to Mr. Marelich.

While we still feel the fine is excessive, we do respect the
authority and process by which it was determined and look forward to
the resolution and a good relationship in the years to come.

Agreed to: *Dave P. Marelich*.....

Dave Marelich.

Witnessed by: *Reuben W. Hills IV*

Reuben W. Hills IV

cc TBBPCS file
cc DM

TAHOE REGIONAL PLANNING AGENCY

P.O. Box 1038
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195 U.S. Highway 50
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GUIDE FOR FINES

Degree of Violation

Nature of Violation

			Inadvertent	Simple Negligence	Willful/Gross Negligence
Permitted Activity	Minor	*	31.25	62.50	125.00
	Major	*	312.50	625.00	2,500.00
Permitted Activity But Not In Compliance	Minor	*	62.50	125.00	250.00
	Major	*	625.00	1,250.00	5,000.00
Prohibited Activity	Minor	*	125.00	250.00	500.00
	Major	*	1,250.00	2,500.00	10,000.00

TAHOE REGIONAL PLANNING AGENCY

P.O. Box 1038
Zephyr Cove, Nevada 89448-1038

195 U.S. Highway 50
Round Hill, Zephyr Cove, NV

(702) 588-4547

MEMORANDUM

February 3, 1989

To: TRPA Governing Board

From: Environmental Compliance Division

Subject: Settlement of Enforcement Action, Gardner Mein,
APN 83-162-31, Placer County

Based upon the following summary and attached report, staff recommends that the Governing Board accept a negotiated settlement between Gardner Mein and TRPA.

The violation consists of cutting of eleven trees greater than six inches diameter breast height (dbh), without a TRPA or California Department of Forestry (CDF) permit. Diameter at stump height for the eleven trees ranged from 8 to 19 inches. In addition to the 11 trees which were cut, six trees had live limbs removed up to two-thirds of the total height of the tree. As defined by the TRPA Code of Ordinances, materially damaging a tree occurs when, among other things, live limbs are removed above the lower one-third of the tree.

The violation took place at 1360 West Lake Blvd., APN 83-162-31, Placer County, California. TRPA Code of Ordinances Subsections 4.10, 4.3.A.(7), and 71.2 were violated by this activity.

The proposed resolution of the enforcement action included payment by Mr. Mein of the sum of \$6,000 as a penalty in lieu of civil litigation. This figure is calculated from the attached "Guide for Fines", matrix as follows:

The Nature of the Violation was determined to be Simple Negligence, while the Degree of Violation was determined to be a Prohibited Activity falling between a Major and Minor Violation. At this juncture the fine is determined to be \$500 per cut tree, and an additional \$500 for materially damaging six trees which could ultimately result in the death of any of those trees.

Mein Settlement
Page Two

Mr. Mein is also required to enter into a contract with a Registered Professional Forester to perform a Timber Stand Evaluation and Recommendation Plan and implement said plan.

Mr. Mein has agreed to and paid the \$6,000 penalty. The Timber Stand Evaluation and Recommendation Plan process will begin upon Governing Board adoption of this resolution and after the site is free of snow.

By approving the settlement agreement, the Governing Board will also be cancelling the tentatively scheduled Show Cause Hearing before said board.

RM:sd
2-3-89

CONSENT CALENDAR ITEM #2



First American Title Insurance Company

475 North Lake Blvd., Suite 203, (P.O. Box 1769), Tahoe City, Calif. 95730, (916) 583-6944

TRPA
Attn: Rick Miller
P.O. Box 1038
Zepher Cove, NV 89448

January 10, 1989

Per the instructions of Gardner Mein, please find our check as payment of tree cutting fine levied by your agency for the property located at 1360 West Lake Blvd. The APN: 083-162-31

Please call the undersigned should you have any questions regarding this transaction.

Cordially,


SUSAN TERRY

RECEIVED

JAN 11 1989

TAHOE REGIONAL
PLANNING AGENCY



FIRST AMERICAN TITLE
INSURANCE COMPANY

475 NORTH LAKE BLVD.
TAHOE CITY, CA 95730
CO. NO. 247-03

Sacramento Valley Regional Head Office
UNION BANK
555 Capital Mall, Sacramento, CA 95814

32348

ESCROW NO. 30000822

January 10, 1989

11-97/850
1210

PAY SIX THOUSAND AND NO/100*****

\$6000.00***

DOLLARS

TAHOE REGIONAL PLANNING AGENCY

TO THE
ORDER
OF

ESCROW ACCOUNT
VOID AFTER 5 MONTHS
Stephene Henderson

⑆003032348⑆ ⑆12100097E⑆ 5500080343⑆

ESCROW NO.

DATE

AMOUNT

No. 32348

RE: MEIN

1360 West Lake Blvd.
083-162-31

fine payoff per Gardner Mein

RECEIVED

JAN 11 1989

TAHOE REGIONAL
PLANNING AGENCY

FIRST AMERICAN TITLE
INSURANCE COMPANY

DETACH AND RETAIN THIS STATEMENT
THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW
IF NOT CORRECT PLEASE NOTIFY US PROMPTLY; NO RECEIPT DESIRED.