



## MEMORANDUM

Date: June 27, 2013  
To: TRPA Hearings Officer  
From: TRPA Staff  
Subject: Approval of the McGee – Nevada Crayfish Removal Project (EIP 01.04.02.06);  
Lake Tahoe, Nevada and, California; File #: 560-101-00/EIPC2013-0008.

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Requested Action: Hearings Officer action on the proposed Nevada Crayfish Removal Project and a finding of no significant environmental effect.

Staff Recommendation: Staff recommends that the Hearings Officer make the required findings and approve the proposed project.

Project Description/Background: Applicant Vince McGee of Aqua Treasures USA LLC. is proposing a commercial boating operation to remove invasive Signal crayfish from Lake Tahoe.

The proposed project area is the entirety of Lake Tahoe, including both Nevada and California; however, commercial harvest of crayfish will occur only in Nevada, as this activity is currently prohibited in California by the California Department of Fish and Wildlife. If California law were to change such that crayfish harvest from Lake Tahoe in California is not prohibited, then the harvest area under this permit could be expanded to include California. The current harvest area generally includes the east shore from the state line to the north and Elks Point to the south.

The purpose of the proposed project is to reduce the environmental impacts of Signal crayfish on native fisheries and water quality through mechanical removal. The project objectives are to remove as many Signal crayfish as possible and to monitor the effects of mechanical removal on the resident crayfish population. Through this pilot project, Aqua Treasures is helping to explore the feasibility of sustaining a crayfish removal effort through the commercial sale of biomass harvested.

The proposed project entails commercial boating operations associated with a commercial crayfish harvest. One commercial watercraft (approximately 16.5 feet long) will be used to set and collect crayfish traps on the lake bottom. Traps will be removed within 48 hours of time set and all crayfish caught in the traps will be removed from Lake Tahoe. Traps will be set in water depths ranging from 15 to 120 feet. Traps will be deployed individually or on a line of 5 to 20 traps. Normal operations will start at dawn and end approximately at sunset. If necessary, night operations to collect traps can be conducted in a manner that does not cause excessive noise or light. Watercraft will be launched from and all harvested crayfish will be unloaded at existing marina facilities, primarily the Cave Rock boat launch on the east shore.

Issues/Concerns: The proposed project includes a commercial boating operation. Commercial boating is a special use in the shorezone and lakezone of Lake Tahoe; the proposed project therefore requires a public hearing. The primary project related issues are:

Source Water Intakes: Water purveyors with source-water intakes in Lake Tahoe identified a potential for the deployment of crayfish traps to interfere with, disrupt, or damage water intakes. Through coordination with purveyors and partner agencies, TRPA has established a 1000-foot “exclusion” zone around all source-water intakes. The placement of crayfish traps or trapping equipment in the 1000-foot exclusion zone is not permitted.

Shorezone and Lakezone Structures: TRPA identified a potential for the deployment of crayfish traps or other trapping equipment to interfere with the use and operation of existing structures. Therefore, staff developed a 50-foot exclusion zone around all structures, including but not limited to piers or docks, mooring or navigation buoy floats or anchors, breakwaters, and a 1000-foot exclusion zone around a boat-launching facilities. The placement of crayfish traps or trapping equipment in these exclusion zones is not permitted.

Crayfish Transport and Sale: Although this permit does not pertain to the transport and sale of Signal crayfish, TRPA has coordinated with the Nevada Department of Wildlife to ensure that invasive crayfish are not transported in the Tahoe Basin other than for the purpose of commercial distribution. Signal crayfish may not be released in any waters in the Tahoe Basin and detailed Record of Transfer forms are required for all catch. Signal crayfish may only be sold to food wholesalers or retailers in accordance with State and Federal laws.

Removal Effectiveness/Environmental Improvement Program: The effectiveness of this project at controlling the Signal crayfish population and/or reducing the ecologic and environmental effects of crayfish on Lake Tahoe is unknown at this time. The draft permit therefore requires monitoring and reporting, and the opportunity for adaptive management through coordination with other agencies. Further, this project will be evaluated annually and prior to June 27, 2015 to assess the effectiveness of crayfish removal as an Environmental Improvement Program Project. This EIP permit application will not be renewed under the EIP unless there is evidence that the mechanical removal proposed in this project can be effective at controlling Signal crayfish or reducing the environmental impacts of invasive crayfish on Lake Tahoe.

Regional Plan Compliance: The proposed project complies with all requirements of the TRPA Goals and Policies, Plan Area Statements, and Code of Ordinances, including all required findings in Chapters 4, 21, 80, and 81 of the TRPA Code of Ordinances (see attachment A for details).

Contact Information: If you have any questions, please contact (Patrick Stone, Senior Fisheries and Wildlife Biologist) at (pstone@trpa.org) or (775-589-5213).

Attachments:

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

### Required Findings/Rationale

Required Findings: The following is a list of the required findings as set forth in Chapters 4, 21, 80, and 81 of the TRPA Code of Ordinances. Following each finding, Agency staff has indicated if there is sufficient evidence contained in the record to make the applicable findings or has briefly summarized the evidence on which the finding can be made.

1. Chapter 4.4.1 – Required Findings:

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

Land Use: The project area lies within the Lake Tahoe lakezone. The project is designed to have no net change in existing uses within the project area. The project would effectively implement goals and policies of the TRPA Regional Plan. Specifically, the proposed project would partially implement an Environmental Improvement Program (EIP) project (01.04.02.06: Control of Aquatic Invasive Species). Therefore this project, as conditioned in the Draft Permit, is consistent with the Regional Plan and will not adversely affect implementation of Land Use or implementation of sub-elements of the Regional Plan.

Transportation: This project will not adversely affect implementation of the Transportation Element of the Regional Plan. The project is designed to have no net change in existing uses and public access within the project area. Although project uses would not result in significant traffic impacts, additional Daily Vehicle Trip Ends (DVTE) would be generated on a short-term basis during harvest operations.

Conservation: Implementation of this project may result in aquatic habitat enhancement consistent with the TRPA Goals and Policies. The project may benefit water quality by reducing the effects of Signal crayfish on aquatic algae, nutrient loading, and lake clarity. The project is a pilot-study that includes effectiveness monitoring and evaluation to determine project effects on Signal crayfish; therefore, the level and certainty of habitat enhancement is unknown. No negative impacts to cultural or historic resources area are expected.

Recreation: This project will not affect recreation. Through the special conditions of the permit, any potential impacts to navigation and recreational users have been addressed through requirements that equipment shall not interfere with the navigation of motorized or non-motorized watercraft, swimming areas, topline fishing, or other recreational uses. The applicant must also maintain conformance with all U. S. Coast Guard requirements for use of the watercraft on Lake Tahoe, including avoidance of navigational hazards. The project is designed to have no net change in existing recreational uses and public access within the project area.

Public Service and Facilities: This project will not affect public services or facilities. The project is design to have no net change in existing public services and access within the project area. The project will utilize existing boat-launching facilities for the launch and retrieval of the watercraft.

Implementation: This project will not affect the Implementation Element of the Regional Plan.

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

TRPA staff has reviewed the “Initial Environmental Checklist” prepared by the applicant., and Article (V)g “Findings” in accordance with Chapter 4, Subsection 6.4 of the TRPA Code of Ordinances. All responses contained on the checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed (V)g checklist is available at the TRPA front desk and will be available at the public hearing.

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

(Refer to paragraph b, above)

## 2. Chapter 21.2.2 – Permissible Uses: Special Uses

Commercial Boating is a special use in the lakezone of Lake Tahoe. Before issuing an approval, TRPA shall make the following findings:

- a. The project to which the use pertains is of such a nature, scale, density, intensity, and type to be an appropriate use for the parcel on which and surrounding area in which it will be located;

Commercial boating associated with the project is of relatively small scale and intensity. This permit authorized the use of one watercraft to be used at any time. The type of boating is consistent with existing recreational fishing activities, and existing commercial and recreational boating on Lake Tahoe. Commercial boating operations like this crayfish removal project are an appropriate use for Lake Tahoe.

- b. The project to which the use pertains will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water, and air resources of both the applicant's property and that of surrounding property owners; and

The project applicant has included in the boating operation plan reasonable measures to avoid areas where crayfish traps could disturb the health, safety, enjoyment of property, or general welfare of the Lake Tahoe region. 9. All trapping equipment, traps, pods, floats or ropes shall be placed no less than 50 feet from any structure – including but not limited to piers or docks, mooring or navigation buoy floats or anchors, breakwaters. Equipment shall not be placed within 1,000 feet of any launch ramp or drinking water intake structures/lines. Equipment shall not interfere with the navigation of watercraft, swimming areas, topline fishing, or other recreational uses. Any surface floats shall be clearly visible and/or display reflective or lighted surfaces when deployed.

- c. The project to which the use pertains will not change the character of the

neighborhood, or detrimentally affect or alter the purpose of the applicable.

The project is designed to not change the character of Lake Tahoe or alter the purpose of the lakezone. Boating operations, watercraft launching, and harvest or equipment loading/unloading associated with this project will occur within existing boating facilities (ie. marinas) that are characterized by similar existing activities.

### 3. Chapter 80.4 – Review of Projects in the Shorezone and Lakezone; Required Findings

A project in the shorezone or lakezone shall not be approved unless TRPA finds that:

- a. Significant Harm - The project will not adversely impact littoral processes; fish spawning; backshore stability, or on-shore wildlife habitat, including wildfowl nesting areas.

The project will occur on Lake Tahoe or at established lake-access facilities; therefore, the project will not adversely affect backshore stability or onshore wildlife habitat. Trapping equipment will be located in areas with water-depths greater than 15 feet; therefore it is unlikely that the project will impact littoral processes or fish spawning. The project may have a beneficial impact on fish spawning by removing predatory crayfish.

- b. Accessory Facilities - There are sufficient accessory facilities to accommodate the project.

Sufficient accessory facilities exist to accommodate the project. The project will utilize existing boat-launching facilities for the launch and retrieval of all watercraft. Accessory facilities potentially accommodating the project are marinas, boat storage, access to public waters, and restrooms.

- c. Compatibility - The project is compatible with existing shorezone and lakezone uses or structures on, or in the immediate vicinity of, the littoral parcel; or that modifications of such existing uses or structures will be undertaken to assure compatibility.

The project is compatible with existing lakezone uses. No modifications to existing uses or structures in the shorezone or lakezone are allowed under this permit. No additional shorezone structures are authorized under this permit.

- d. Use - The use proposed in the foreshore or nearshore is water dependent.

The project area does not include the foreshore. Commercial boating operations are, by nature, water dependent.

- d. Hazardous Materials - Measures will be taken to prevent spills or discharges of hazardous materials.

Measures have been included in project design to prevent the spill or discharge of hazardous materials. The applicant will comply with TRPA Code of Ordinances pertaining to boating, engines, and hazardous materials. Refueling will occur on at existing refueling stations or pumps.

- f. Construction - Construction and access techniques will be used to minimize disturbance to the ground and vegetation.

No disturbance to the ground or terrestrial vegetation is allowed under this permit. Traps will be deployed in areas that will minimize disturbances to aquatic vegetation.

- g. Navigation and Safety - The project will not adversely impact navigation or create a threat to public safety as determined by those agencies with jurisdiction over a lake's navigable waters.

The project will not adversely impact navigation or create a threat to public safety. Commercial activities will be restricted in the vicinity of all boating facilities and structures according to TRPA defined exclusion zones. Trapping equipment is not allowed within 50 feet of a structure or within 1000 feet of a launch facility. Trap lines will be marked with bouys that are submerged at least 5-feet from the water surface and will be clearly marked with a light or reflective surfaces. Surface markers for this project will be designed in coordination with the US Coast Guard and the Nevada Department of Wildlife.

- h. Other Agency Comments - TRPA has solicited comments from those public agencies having jurisdiction over the nearshore and foreshore and all such comments received were considered by TRPA prior to action being taken on the project.

TRPA has solicited comments from and developed the conditions in this permit in coordination with Nevada State Lands Commission, Nevada Department of Wildlife, US Coast Guard, California Department of Fish and Wildlife, and Lake Tahoe water purveyors. Additional written comments will be accepted through June 26, 2013 and all comments will be available on June 27, 2012.

#### 4. Chapter 81.2.2 – Permissible Uses and Structures in the Shorezone and Lakezone; Special Uses

Before issuing an approval for special uses in the shorezone or lakezone, TRPA shall make the following findings:

- a. The project, to which the use pertains, is of such a nature, scale, density, intensity and type to be an appropriate use for the parcel on which, and surrounding area in which, it will be located.

(Refer to paragraph 2.a, above)

- b. The project, to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or in the region.

(Refer to paragraph 2.b, above)

- c. The applicant has taken reasonable steps to protect the land, water and air resources of both the applicant's property and that of surrounding property owners.

The project has been designed to protect the land, water, and air resources through elements to minimize travel, prevent a hazardous material spill, and avoid transport of non-target aquatic invasive species. The project is designed to restore water resources by removing Signal crayfish.

- d. The project, to which the use pertains, will not change the character of the neighborhood, detrimentally affect or alter the purpose of the applicable plan area statement, community, redevelopment, specific, or master plan as the case may be. (Refer to paragraph 2.c, above)

ATTACHMENT B

**DRAFT PERMIT**

PROJECT DESCRIPTION: McGee – Nevada Crayfish Removal Project (EIP #01.04.02.06)

FILE #: EIPC2013-0008

APN: 560-101-00

PERMITTEE(S): Vince McGee, Aqua Treasures USA LLC.

COUNTY/LOCATION: The project area is located in Lake Tahoe, Nevada and California.

Having made the findings required by Agency ordinances and rules, the TRPA Hearings Officer approved the project on June 27, 2013 subject to the special conditions found in this permit.

This permit shall expire on June 27, 2015 without further notice. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action that delayed or rendered impossible the diligent pursuit of the permit.

**NO COMMERCIAL OPERATION SHALL COMMENCE UNTIL:**

- (1) TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE(S) HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT;
- (2) ALL PRE-PROJECT CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT; AND,
- (3) A TRPA INSPECTION HAS BEEN CONDUCTED WITH THE BOAT OWNER AND THE OPERATOR, AND A COMMERCIAL OPERATION SCHEDULE SUBMITTED.

\_\_\_\_\_  
TRPA Executive Director/Designee

\_\_\_\_\_  
Date

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

Signature of Permittee(s) \_\_\_\_\_

Date \_\_\_\_\_

**TRPA PROJECT NUMBER 560-101-00**  
**FILE NO. EIPC2013-0008**

Security Posted: N/A

EIP Project # 01.04.02.06

Required plans determined to be in conformance with approval: Date: \_\_\_\_\_

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

\_\_\_\_\_  
TRPA Executive Director/Designee

\_\_\_\_\_  
Date

***SPECIAL CONDITIONS***

1. This project is part of the Lake Tahoe Environmental Improvement Program (EIP), project number 01.04.02.06, Aquatic Invasive Species Control.
2. This permit specifically authorizes commercial boating for the use of one watercraft at a time on Lake Tahoe for commercial purposes. All watercraft used for this commercial boating operation shall be described in the operations plan (see below). This permit authorizes certain uses on land and water as conditioned with this permit.
3. This permit is valid for a period of 2 (two) years, expiring on June 27, 2015. This permit may be renewed prior to expiration, pending a review of the Environmental Improvement resulting from the commercial harvest operation.
4. Prior to permit acknowledgement, the following conditions of approval must be satisfied.
  - A. The permittee shall submit a final operations schedule which includes:
    - (1) An operations plan outlining the planned method of watercraft launch and retrieval, planned method for storing or unloading daily catch, and number of vehicle and boat trips per day.
    - (2) Copies of all current permits and certifications from the Nevada Department of Wildlife and Nevada Division of State Lands; and other permitting agencies, as appropriate. This includes copies of current vessel registration documentation and commercial harvest permits.
    - (3) Compliance with annual TRPA Lake Tahoe watercraft inspection and sticker program.
  - B. The permittee shall submit an air quality mitigation fee. This fee is based on the addition of commercial daily vehicle trips at a rate of \$36.20/trip, or \$181 for five additional daily vehicle trips.



- C. The permittee shall sign the permit form stating that the permit was received, the permit is understood, and the contents accepted prior to any activity within the project area. The operation plan shall not be stamped approved without receiving the signed permit.
  - D. The permittee shall submit a monthly report to the TRPA Aquatic Invasive Species Program Coordinator detailing the number and type of traps used; the date, time, location and depth for each trap set, emptied and removed; the poundage and count of crayfish caught, harvested and disposed of; the type and quantity of bait used; the quantity, length, identity and condition of non-target fish caught and/or released; the quantity of crayfish sent to market and the poundage retained for bait. This report shall be submitted in Microsoft Excel or equivalent electronic format. The monthly report is due 15 days following the end of each month.
5. The permittee shall submit an annual operations schedule by January 15 of each year. The annual operations schedule requires TRPA approval prior to yearly operation. The information shall include an updated operations schedule including those items requested in Special Condition 2.A. of this permit.
  6. It is the permittee's responsibility to maintain conformance with all U. S. Coast Guard requirements for use of the watercraft on Lake Tahoe. It is the permittee's responsibility to obtain authorization and maintain compliance with all applicable state, federal, and local regulations for the commercial operation at all times.
  7. Commercial boating under this TRPA permit is authorized in the entirety of the waters of Lake Tahoe. Any commercial fish harvesting is subject to the regulations, exclusion or location zones, and authorizations of the respective resource authorities. All trapping equipment, traps, pods, floats or ropes shall not be placed in any area identified for closure in permits issued by any other land management or permitting agency.
  8. Commercial boating is not authorized in areas where water levels do not allow clearance of watercraft draft. At no time shall any part of the watercraft come into contact with the lake bottom or subsurface erosion control structures (i.e. lake bottom revetments, rock gabions, etc.).
  9. All trapping equipment, traps, pods, floats or ropes shall be placed no less than 50 feet from any structure – including but not limited to piers or docks, mooring or navigation buoy floats or anchors, breakwaters - in the shorezone or lakezone of Lake Tahoe. Equipment shall not be placed within 1,000 feet of any launch ramp or drinking water intake structures/lines. Equipment shall not interfere with the navigation of motorized or non-motorized watercraft, swimming areas, topline fishing, or other recreational uses. Any surface floats shall be clearly visible and/or display reflective or lighted surfaces when deployed.
  10. All trapping equipment will be designed and tested to avoid incidental catch of native minnows and other non-target fish species. If native fish are captured in traps or pods, they will be measured, identified, and visually assessed for evidence of physical trauma. Information on all incidental catch will be included in monthly reports. TRPA may exclude certain trapping

equipment or pod designs from this commercial boating operation if significant quantities of native fish species are caught.

11. No permanent structures are authorized under this permit. The temporary placement of floating markers is permitted, however temporary placement of such equipment shall not exceed 48 hours in the same location unless unsafe weather conditions delay retrieval.
12. This commercial activity shall not cause violation of any of the community noise equivalent levels (CNEL) of the Plan Area Statements in which this operation will occur.
13. Any watercraft used for this commercial boating operation shall meet the TRPA Code requirements for watercraft, including subsection 60.1.3.E, prohibition of two-stroke engines; subsection 63.4, aquatic invasive species inspections and decontaminations; and subsection 68.3.1.C, maximum allowable single-noise event levels.
14. All commercial boating operations conducted within 600 feet of the waterline of Lake Tahoe shall observe the no-wake-zone and may not create a wake or exceed 5 MPH.
15. This permit authorizes commercial boating activities on Lake Tahoe. No operations are permitted on the tributaries of Lake Tahoe or in any other lakes in the Region.
16. All project and employee vehicles, including trailers, shall be parked on existing paved surfaces in a designated legal parking area.
17. This approval is based on the permittee's representation that all plans and information contained in the subject application are true and correct. Should any information or representation submitted in connection with the project application be incorrect or untrue, TRPA may rescind this approval or take other appropriate action.
18. Information contained in special reports prepared for the project, including, but not limited to, U. S. Coast Guard Temporary Certificates of Inspection, are considered conditions of project approval.
19. The stated conditions of this permit shall be adhered to throughout the lifetime of this operation. This permit may be revoked if at any time the operation is out of compliance with the conditions of this permit.
20. The discharge of petroleum products, waste and litter, or earthen materials to the waters of the Lake Tahoe Basin is prohibited. All surplus bait and other materials shall be removed from the water body and deposited in a proper disposal site.
21. The project may be subject to the permitting requirements of other agencies with jurisdiction over the proposed project activities, including the U.S. Army Corps of Engineers, Washoe County Building Department, and all other applicable County Departments.
22. 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 the permittee.

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

END OF PERMIT

**MITIGATED FINDING OF NO SIGNIFICANT EFFECT**

PROJECT DESCRIPTION: McGee – Nevada Crayfish Removal Project (EIP #01.04.02.06)

TRPA PROJECT NUMBER: 560-101-00

FILE #: EIPC2013-0008

PERMITTEE(S): Vince McGee, Aqua Treasures USA LLC.

COUNTY/LOCATION: The project area is located in Lake Tahoe, Nevada and California.

Staff Analysis: In accordance with Article IV of the Tahoe Regional Planning Compact, as amended, and Section 6.3 of the TRPA Rules and Regulations of Practice and Procedure, the TRPA staff has reviewed the information submitted with the subject project. On the basis of this initial environmental evaluation, Agency staff has found that the subject project will not have a significant effect on the environment.

Determination: Based on the above-stated finding, the subject project is conditionally exempt from the requirement to prepare an Environmental Impact Statement. The conditions of this exemption are the conditions of permit approval.

\_\_\_\_\_  
TRPA Chairman or Executive Director/Designee

\_\_\_\_\_  
Date

## MEMORANDUM

Date: June 27, 2013  
To: TRPA Hearings Officer  
From: TRPA Staff  
Subject: Approval of the McIntyre –Crayfish Removal Project (EIP 01.04.02.06); Lake Tahoe, Nevada and, California; File #: 560-101-00/EIPC2013-0007.

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Requested Action: Hearings Officer action on the proposed Invasive Crayfish Removal Project and a finding of no significant environmental effect.

Staff Recommendation: Staff recommends that the Hearings Officer make the required findings and approve the proposed project.

Project Description/Background: Applicant Patrick McIntyre of Tahoe Crayfish Company, Inc. is proposing a commercial boating operation to remove invasive Signal crayfish from Lake Tahoe.

The proposed project area is the entirety of Lake Tahoe, including both Nevada and California; however, commercial harvest of crayfish will occur only in Nevada, as this activity is currently prohibited in California by the California Department of Fish and Wildlife. If California law were to change such that crayfish harvest from Lake Tahoe in California is not prohibited, then the harvest area under this permit could be expanded to include California. The current harvest area generally includes the east shore from the state line to the north and Elks Point to the south.

The purpose of the proposed project is to reduce the environmental impacts of Signal crayfish on native fisheries and water quality through mechanical removal. The project objectives are to remove as many Signal crayfish as possible and to monitor the effects of mechanical removal on the resident crayfish population. Through this pilot project, Tahoe Crayfish Company is helping to explore the feasibility of sustaining a crayfish removal effort through the commercial sale of biomass harvested.

The proposed project entails commercial boating operations associated with a commercial crayfish harvest. One commercial watercraft (approximately 16.5 feet long) will be used to set and collect crayfish traps on the lake bottom. Traps will be removed within 48 hours of time set and all crayfish caught in the traps will be removed from Lake Tahoe. Traps will be set in water depths ranging from 15 to 120 feet. Traps will be deployed individually or on a line of 5 to 20 traps. Normal operations will start at dawn and end approximately at sunset. If necessary, night operations to collect traps can be conducted in a manner that does not cause excessive noise or light. Watercraft will be launched from and all harvested crayfish will be unloaded at existing marina facilities, primarily the Cave Rock boat launch on the east shore.

Issues/Concerns: The proposed project includes a commercial boating operation. Commercial boating is a special use in the shorezone and lakezone of Lake Tahoe; the proposed project therefore requires a public hearing. The primary project related issues are:

Source Water Intakes: Water purveyors with source-water intakes in Lake Tahoe identified a potential for the deployment of crayfish traps to interfere with, disrupt, or damage water intakes. Through coordination with purveyors and partner agencies, TRPA has established a 1000-foot “exclusion” zone around all source-water intakes. The placement of crayfish traps or trapping equipment in the 1000-foot exclusion zone is not permitted.

Shorezone and Lakezone Structures: TRPA identified a potential for the deployment of crayfish traps or other trapping equipment to interfere with the use and operation of existing structures. Therefore, staff developed a 50-foot exclusion zone around all structures, including but not limited to piers or docks, mooring or navigation buoy floats or anchors, breakwaters, and a 1000-foot exclusion zone around a boat-launching facilities. The placement of crayfish traps or trapping equipment in these exclusion zones is not permitted.

Crayfish Transport and Sale: Although this permit does not pertain to the transport and sale of Signal crayfish, TRPA has coordinated with the Nevada Department of Wildlife to ensure that invasive crayfish are not transported in the Tahoe Basin other than for the purpose of commercial distribution. Signal crayfish may not be released in any waters in the Tahoe Basin and detailed Record of Transfer forms are required for all catch. Signal crayfish may only be sold to food wholesalers or retailers in accordance with State and Federal laws.

Removal Effectiveness/Environmental Improvement Program: The effectiveness of this project at controlling the Signal crayfish population and/or reducing the ecologic and environmental effects of crayfish on Lake Tahoe is unknown at this time. The draft permit therefore requires monitoring and reporting, and the opportunity for adaptive management through coordination with other agencies. Further, this project will be evaluated annually and prior to June 27, 2015 to assess the effectiveness of crayfish removal as an Environmental Improvement Program Project. This EIP permit application will not be renewed under the EIP unless there is evidence that the mechanical removal proposed in this project can be effective at controlling Signal crayfish or reducing the environmental impacts of invasive crayfish on Lake Tahoe.

Regional Plan Compliance: The proposed project complies with all requirements of the TRPA Goals and Policies, Plan Area Statements, and Code of Ordinances, including all required findings in Chapters 4, 21, 80, and 81 of the TRPA Code of Ordinances (see attachment A for details).

Contact Information: If you have any questions, please contact (Patrick Stone, Senior Fisheries and Wildlife Biologist) at (pstone@trpa.org) or (775-589-5213).

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1. **Chapter 4.4.1 – Required Findings:**

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

**Land Use:** The project area lies within the Lake Tahoe lakezone. The project is designed to have no net change in existing uses within the project area. The project would effectively implement goals and policies of the TRPA Regional Plan. Specifically, the proposed project would partially implement an Environmental Improvement Program (EIP) project (01.04.02.06: Control of Aquatic Invasive Species). Therefore this project, as conditioned in the Draft Permit, is consistent with the Regional Plan and will not adversely affect implementation of Land Use or implementation of sub-elements of the Regional Plan.

**Transportation:** This project will not adversely affect implementation of the Transportation Element of the Regional Plan. The project is designed to have no net change in existing uses and public access within the project area. Although project uses would not result in significant traffic impacts, additional Daily Vehicle Trip Ends (DVTE) would be generated on a short-term basis during harvest operations.

**Conservation:** Implementation of this project may result in aquatic habitat enhancement consistent with the TRPA Goals and Policies. The project may benefit water quality by reducing the effects of Signal crayfish on aquatic algae, nutrient loading, and lake clarity. The project is a pilot-study that includes effectiveness monitoring and evaluation to determine project effects on Signal crayfish; therefore, the level and certainty of habitat enhancement is unknown. No negative impacts to cultural or historic resources area are expected.

**Recreation:** This project will not affect recreation. Through the special conditions of the permit, any potential impacts to navigation and recreational users have been addressed through requirements that equipment shall not interfere with the navigation of motorized or non-motorized watercraft, swimming areas, topline fishing, or other recreational uses. The applicant must also maintain conformance with all U. S. Coast Guard requirements for use of the watercraft on Lake Tahoe, including avoidance of navigational hazards. The project is designed to have no net change in existing recreational uses and public access within the project area.

**Public Service and Facilities:** This project will not affect public services or facilities. The project is design to have no net change in existing public services and access within the project area. The project will utilize existing boat-launching facilities for the launch and retrieval of the watercraft.

Implementation: This project will not affect the Implementation Element of the Regional Plan.

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

TRPA staff has reviewed the “Initial Environmental Checklist” prepared by the applicant., and Article (V)g “Findings” in accordance with Chapter 4, Subsection 6.4 of the TRPA Code of Ordinances. All responses contained on the checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed (V)g checklist is available at the TRPA front desk and will be available at the public hearing.

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

(Refer to paragraph b, above)

## 2. Chapter 21.2.2 – Permissible Uses: Special Uses

Commercial Boating is a special use in the lakezone of Lake Tahoe. Before issuing an approval, TRPA shall make the following findings:

- a. The project to which the use pertains is of such a nature, scale, density, intensity, and type to be an appropriate use for the parcel on which and surrounding area in which it will be located;

Commercial boating associated with the project is of relatively small scale and intensity. This permit authorized the use of one watercraft to be used at any time. The type of boating is consistent with existing recreational fishing activities, and existing commercial and recreational boating on Lake Tahoe. Commercial boating operations like this crayfish removal project are an appropriate use for Lake Tahoe.

- b. The project to which the use pertains will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water, and air resources of both the applicant's property and that of surrounding property owners; and

The project applicant has included in the boating operation plan reasonable measures to avoid areas where crayfish traps could disturb the health, safety, enjoyment of property, or general welfare of the Lake Tahoe region. 9. All trapping equipment, traps, pods, floats or ropes shall be placed no less than 50 feet from any structure – including but not limited to piers or docks, mooring or navigation buoy floats or anchors, breakwaters. Equipment shall not be placed within 1,000 feet of any launch ramp or drinking water intake structures/lines. Equipment shall not interfere with the navigation of watercraft, swimming areas, topline fishing, or other recreational uses. Any surface floats shall be clearly visible and/or display reflective or lighted surfaces when deployed.

- c. The project to which the use pertains will not change the character of the



neighborhood, or detrimentally affect or alter the purpose of the applicable.

The project is designed to not change the character of Lake Tahoe or alter the purpose of the lakezone. Boating operations, watercraft launching, and harvest or equipment loading/unloading associated with this project will occur within existing boating facilities (ie. marinas) that are characterized by similar existing activities.

### 3. Chapter 80.4 – Review of Projects in the Shorezone and Lakezone; Required Findings

A project in the shorezone or lakezone shall not be approved unless TRPA finds that:

- a. Significant Harm - The project will not adversely impact littoral processes; fish spawning; backshore stability, or on-shore wildlife habitat, including wildfowl nesting areas.

The project will occur on Lake Tahoe or at established lake-access facilities; therefore, the project will not adversely affect backshore stability or onshore wildlife habitat. Trapping equipment will be located in areas with water-depths greater than 15 feet; therefore it is unlikely that the project will impact littoral processes or fish spawning. The project may have a beneficial impact on fish spawning by removing predatory crayfish.

- b. Accessory Facilities - There are sufficient accessory facilities to accommodate the project.

Sufficient accessory facilities exist to accommodate the project. The project will utilize existing boat-launching facilities for the launch and retrieval of all watercraft. Accessory facilities potentially accommodating the project are marinas, boat storage, access to public waters, and restrooms.

- c. Compatibility - The project is compatible with existing shorezone and lakezone uses or structures on, or in the immediate vicinity of, the littoral parcel; or that modifications of such existing uses or structures will be undertaken to assure compatibility.

The project is compatible with existing lakezone uses. No modifications to existing uses or structures in the shorezone or lakezone are allowed under this permit. No additional shorezone structures are authorized under this permit.

- d. Use - The use proposed in the foreshore or nearshore is water dependent.

The project area does not include the foreshore. Commercial boating operations are, by nature, water dependent.

- d. Hazardous Materials - Measures will be taken to prevent spills or discharges of hazardous materials.

Measures have been included in project design to prevent the spill or discharge of hazardous materials. The applicant will comply with TRPA Code of Ordinances pertaining to boating, engines, and hazardous materials. Refueling will occur on at existing refueling stations or pumps.

- f. Construction - Construction and access techniques will be used to minimize disturbance to the ground and vegetation.

No disturbance to the ground or terrestrial vegetation is allowed under this permit. Traps will be deployed in areas that will minimize disturbances to aquatic vegetation.

- g. Navigation and Safety - The project will not adversely impact navigation or create a threat to public safety as determined by those agencies with jurisdiction over a lake's navigable waters.

The project will not adversely impact navigation or create a threat to public safety. Commercial activities will be restricted in the vicinity of all boating facilities and structures according to TRPA defined exclusion zones. Trapping equipment is not allowed within 50 feet of a structure or within 1000 feet of a launch facility. Trap lines will be marked with bouys that are submerged at least 5-feet from the water surface and will be clearly marked with a light or reflective surfaces. Surface markers for this project will be designed in coordination with the US Coast Guard and the Nevada Department of Wildlife.

- h. Other Agency Comments - TRPA has solicited comments from those public agencies having jurisdiction over the nearshore and foreshore and all such comments received were considered by TRPA prior to action being taken on the project.

TRPA has solicited comments from and developed the conditions in this permit in coordination with Nevada State Lands Commission, Nevada Department of Wildlife, US Coast Guard, California Department of Fish and Wildlife, and Lake Tahoe water purveyors. Additional written comments will be accepted through June 26, 2013 and all comments will be available on June 27, 2012.

#### 4. Chapter 81.2.2 – Permissible Uses and Structures in the Shorezone and Lakezone; Special Uses

Before issuing an approval for special uses in the shorezone or lakezone, TRPA shall make the following findings:

- a. The project, to which the use pertains, is of such a nature, scale, density, intensity and type to be an appropriate use for the parcel on which, and surrounding area in which, it will be located.

(Refer to paragraph 2.a, above)

- b. The project, to which the use pertains, will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or in the region.

(Refer to paragraph 2.b, above)

- c. The applicant has taken reasonable steps to protect the land, water and air resources of both the applicant's property and that of surrounding property owners.

The project has been designed to protect the land, water, and air resources through elements to minimize travel, prevent a hazardous material spill, and avoid transport of non-target aquatic invasive species. The project is designed to restore water resources by removing Signal crayfish.

- d. The project, to which the use pertains, will not change the character of the neighborhood, detrimentally affect or alter the purpose of the applicable plan area statement, community, redevelopment, specific, or master plan as the case may be. (Refer to paragraph 2.c, above)



**DRAFT PERMIT**

PROJECT DESCRIPTION: McIntyre – Invasive Crayfish Removal Project (EIP #01.04.02.06)

FILE #: EIPC2013-0007

APN: 560-101-00

PERMITTEE(S): Patrick McIntyre; Tahoe Crayfish Company, Inc.

COUNTY/LOCATION: The project area is located in Lake Tahoe, Nevada and California.

Having made the findings required by Agency ordinances and rules, the TRPA Hearings Officer approved the project on June 27, 2013 subject to the special conditions found in this permit.

This permit shall expire on June 27, 2015 without further notice. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action that delayed or rendered impossible the diligent pursuit of the permit.

**NO COMMERCIAL OPERATION SHALL COMMENCE UNTIL:**

- (1) TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE(S) HAS ACKNOWLEDGED RECEIPT OF THE PERMIT AND ACCEPTANCE OF THE CONTENTS OF THE PERMIT;
- (2) ALL PRE-PROJECT CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA’S ACKNOWLEDGEMENT OF THIS PERMIT; AND,
- (3) A TRPA INSPECTION HAS BEEN CONDUCTED WITH THE BOAT OWNER AND THE OPERATOR, AND A COMMERCIAL OPERATION SCHEDULE SUBMITTED.

\_\_\_\_\_  
TRPA Executive Director/Designee

\_\_\_\_\_  
Date

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

\_\_\_\_\_

Signature of Permittee(s) \_\_\_\_\_

Date \_\_\_\_\_

**TRPA PROJECT NUMBER 560-101-00  
FILE NO. EIPC2013-0007**

Security Posted: N/A

EIP Project # 01.04.02.06

Required plans determined to be in conformance with approval: Date: \_\_\_\_\_

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

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_____ TRPA Executive Director/Designee	_____ Date
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***SPECIAL CONDITIONS***

1. This project is part of the Lake Tahoe Environmental Improvement Program (EIP), project number 01.04.02.06, Aquatic Invasive Species Control.
2. This permit specifically authorizes commercial boating for the use of one watercraft at a time on Lake Tahoe for commercial purposes. All watercraft used for this commercial boating operation shall be described in the operations plan (see below). This permit authorizes certain uses on land and water as conditioned with this permit.
3. This permit is valid for a period of 2 (two) years, expiring on June 27, 2015. This permit may be renewed prior to expiration, pending a review of the Environmental Improvement resulting from the commercial harvest operation.
4. Prior to permit acknowledgement, the following conditions of approval must be satisfied.
  - A. The permittee shall submit a final operations schedule which includes:
    - (1) An operations plan outlining the planned method of watercraft launch and retrieval, planned method for storing or unloading daily catch, and number of vehicle and boat trips per day.
    - (2) Copies of all current permits and certifications from the Nevada Department of Wildlife and Nevada Division of State Lands; and other permitting agencies, as appropriate. This includes copies of current vessel registration documentation and commercial harvest permits.
    - (3) Compliance with annual TRPA Lake Tahoe watercraft inspection and sticker program.
  - B. The permittee shall submit an air quality mitigation fee. This fee is based on the addition of commercial daily vehicle trips at a rate of \$36.20/trip, or \$181 for five additional daily vehicle trips.

- C. The permittee shall sign the permit form stating that the permit was received, the permit is understood, and the contents accepted prior to any activity within the project area. The operation plan shall not be stamped approved without receiving the signed permit.
  - D. The permittee shall submit a monthly report to the TRPA Aquatic Invasive Species Program Coordinator detailing the number and type of traps used; the date, time, location and depth for each trap set, emptied and removed; the poundage and count of crayfish caught, harvested and disposed of; the type and quantity of bait used; the quantity, length, identity and condition of non-target fish caught and/or released; the quantity of crayfish sent to market and the poundage retained for bait. This report shall be submitted in Microsoft Excel or equivalent electronic format. The monthly report is due 15 days following the end of each month.
5. The permittee shall submit an annual operations schedule by January 15 of each year. The annual operations schedule requires TRPA approval prior to yearly operation. The information shall include an updated operations schedule including those items requested in Special Condition 2.A. of this permit.
  6. It is the permittee's responsibility to maintain conformance with all U. S. Coast Guard requirements for use of the watercraft on Lake Tahoe. It is the permittee's responsibility to obtain authorization and maintain compliance with all applicable state, federal, and local regulations for the commercial operation at all times.
  7. Commercial boating under this TRPA permit is authorized in the entirety of the waters of Lake Tahoe. Any commercial fish harvesting is subject to the regulations, exclusion or location zones, and authorizations of the respective resource authorities. All trapping equipment, traps, pods, floats or ropes shall not be placed in any area identified for closure in permits issued by any other land management or permitting agency.
  8. Commercial boating is not authorized in areas where water levels do not allow clearance of watercraft draft. At no time shall any part of the watercraft come into contact with the lake bottom or subsurface erosion control structures (i.e. lake bottom revetments, rock gabions, etc.).
  9. All trapping equipment, traps, pods, floats or ropes shall be placed no less than 50 feet from any structure – including but not limited to piers or docks, mooring or navigation buoy floats or anchors, breakwaters - in the shorezone or lakezone of Lake Tahoe. Equipment shall not be placed within 1,000 feet of any launch ramp or drinking water intake structures/lines. Equipment shall not interfere with the navigation of motorized or non-motorized watercraft, swimming areas, topline fishing, or other recreational uses. Any surface floats shall be clearly visible and/or display reflective or lighted surfaces when deployed.
  10. All trapping equipment will be designed and tested to avoid incidental catch of native minnows and other non-target fish species. If native fish are captured in traps or pods, they will be measured, identified, and visually assessed for evidence of physical trauma. Information on all incidental catch will be included in monthly reports. TRPA may exclude

certain trapping equipment or pod designs from this commercial boating operation if significant quantities of native fish species are caught.

11. No permanent structures are authorized under this permit. The temporary placement of floating markers is permitted, however temporary placement of such equipment shall not exceed 48 hours in the same location unless unsafe weather conditions delay retrieval.
12. This commercial activity shall not cause violation of any of the community noise equivalent levels (CNEL) of the Plan Area Statements in which this operation will occur.
13. Any watercraft used for this commercial boating operation shall meet the TRPA Code requirements for watercraft, including subsection 60.1.3.E, prohibition of two-stroke engines; subsection 63.4, aquatic invasive species inspections and decontaminations; and subsection 68.3.1.C, maximum allowable single-noise event levels.
14. All commercial boating operations conducted within 600 feet of the waterline of Lake Tahoe shall observe the no-wake-zone and may not create a wake or exceed 5 MPH.
15. This permit authorizes commercial boating activities on Lake Tahoe. No operations are permitted on the tributaries of Lake Tahoe or in any other lakes in the Region.
16. All project and employee vehicles, including trailers, shall be parked on existing paved surfaces in a designated legal parking area.
17. This approval is based on the permittee's representation that all plans and information contained in the subject application are true and correct. Should any information or representation submitted in connection with the project application be incorrect or untrue, TRPA may rescind this approval or take other appropriate action.
18. Information contained in special reports prepared for the project, including, but not limited to, U. S. Coast Guard Temporary Certificates of Inspection, are considered conditions of project approval.
19. The stated conditions of this permit shall be adhered to throughout the lifetime of this operation. This permit may be revoked if at any time the operation is out of compliance with the conditions of this permit.
20. The discharge of petroleum products, waste and litter, or earthen materials to the waters of the Lake Tahoe Basin is prohibited. All surplus bait and other materials shall be removed from the water body and deposited in a proper disposal site.
21. The project may be subject to the permitting requirements of other agencies with jurisdiction over the proposed project activities, including the U.S. Army Corps of Engineers, Washoe County Building Department, and all other applicable County Departments.
22. 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 the permittee.

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

END OF PERMIT

**MITIGATED FINDING OF NO SIGNIFICANT EFFECT**

PROJECT DESCRIPTION: McIntyre – Invasive Crayfish Removal Project (EIP #01.04.02.06)

TRPA PROJECT NUMBER: 560-101-00

FILE #: EIPC2013-0007

PERMITTEE(S): Patrick McIntyre; Tahoe Crayfish Company, Inc.

COUNTY/LOCATION: The project area is located in Lake Tahoe, Nevada and California.

Staff Analysis: In accordance with Article IV of the Tahoe Regional Planning Compact, as amended, and Section 6.3 of the TRPA Rules and Regulations of Practice and Procedure, the TRPA staff has reviewed the information submitted with the subject project. On the basis of this initial environmental evaluation, Agency staff has found that the subject project will not have a significant effect on the environment.

Determination: Based on the above-stated finding, the subject project is conditionally exempt from the requirement to prepare an Environmental Impact Statement. The conditions of this exemption are the conditions of permit approval.

\_\_\_\_\_  
TRPA Chairman or Executive Director/Designee

\_\_\_\_\_  
Date