

## MEMORANDUM

Date: July 14, 2011  
To: TRPA Hearings Officer  
From: TRPA Staff  
Subject: Water Intake Line Addition/Modification, 2280 Sunnyside Lane, Placer County, California, Assessor's Parcel Number (APN) 084-172-005, TRPA File Number ERSP2011-0666.

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Requested Action: Hearings Officer action on the proposed project and related findings based on this Staff Summary and the Draft Permit (Attachment A).

Staff Recommendation: Staff recommends that the Hearings Officer make the required findings and approve the proposed project based on this staff summary and the evidence contained in the project record. The recommended conditions of approval are contained in the attached Draft Permit (Attachment B).

Required Actions: Staff recommends that the Hearings Officer approve the project by making the following motions and findings based on this staff summary and the evidence contained in the record:

- I. Approve the findings contained in this staff summary.
- II. Approve the project, based on the staff summary, subject to the conditions contained in the attached Draft TRPA permit.

Project Description/Background: On August 19, 2010, the applicant received approval to rebuild a single family dwelling at 2280 Sunnyside Lane, Tahoe City, California (APN 084-172-005). Fire code requires that the new residence have a fire suppression system which includes sprinklers inside the structure, and a new onsite fire hydrant. Existing municipal water system infrastructure is inadequate to supply the volume of water the North Tahoe Fire Protection District requires for the fire hydrant. To meet the flow requirements two options were identified and evaluated including; replacement and upsizing of an existing lake-fed water intake line, or alternatively, installation of a 25,000 underground water storage tank. Based on the analysis the underground storage tank is the inferior alternative due to the excessive excavation required and the reservoir's finite water capacity. The proposed project would remove an existing 2 inch diameter lake-fed water intake line which currently supplies irrigation for the upland landscape, and replace the intake with a new 6 inch diameter ductile iron pipeline and new submersible pump to suction water from Lake Tahoe to the residential fire suppression system in the event of an emergency. The new intake line will extend to the same offshore depth as the existing intake and lay atop the lakebed, with the weight of the pipe and pump self-anchoring the intake on the lake bottom. To protect public health and safety and reduce the likelihood of injury, the pipeline will be placed underground beginning at elevation 6,228, approximately one vertical foot below the high water line, to bury that portion of the pipeline between the shore and the existing upland pumphouse structure.

Site Description: The 3.9-acre lakefront parcel located at 2280 Sunnyside Lane comprises Lot 20 and a portion of Lot 19, of Sunnyside Map No. 2, recorded March 4, 1935. The parcel is located on the west shore of Lake Tahoe, approximately 2.5 miles south of Tahoe City in Placer County, California. The flat, wooded parcel is long and narrow (roughly 200 feet by 575 feet) and is rectangular shaped. The property is located within a residential neighborhood where surrounding include compatible estate-type parcels. The site is currently under construction to rebuild the primary residence. The rocky substrate in the shorezone of the project area is fish spawning habitat.

Issues/Concerns: The proposed project is located within Plan Area Statement (PAS) 164 Sunnyside/Skyland where water intake lines are listed as a special use and therefore require Hearings Officer review in accordance with Chapter 4, Appendix A, of the TRPA Code of Ordinances.

Regional Plan Compliance: The proposed project, as conditioned in the Draft Permit, complies with all requirements of the TRPA Goals and Policies, Plan Area Statement 164, and Code of Ordinances, including all required findings in Chapters 6, 18, 50, and 51 of the TRPA Code of Ordinances (see Attachment A for details).

Contact Information: For questions regarding this project please contact Patrick Dobbs at (775) 589-5215 or pdobbs@trpa.org.

Attachments:

- Required Findings/Rationale (Attachment A)
- Draft Permit (Attachment B)
- Proposed Site Plan (Attachment C)

## Attachment A – Required Findings/Rationale

A. The following is a list of the required findings as set forth in Chapters 6, 18, 50, and 51, of the TRPA Code of Ordinances. Following each finding, agency staff has briefly summarized the evidence on which the finding can be made.

1. Chapter 6.3.A 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.

The proposed project is consistent with and will not adversely affect implementation of the Regional Plan including the Partial Shorezone Permitting Program authorized by the TRPA Governing Board in Resolution 2011-09, and all applicable TRPA plans and programs. The project has been designed to be light on the land and environmental impacts resulting from the project will be mitigated onsite to less than significant levels.

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

The basis for this finding is provided on the checklist entitled "Project Review Conformance Checklist and Article V(g) Findings" in accordance with Chapter 6, Subsection 6.3.A of the TRPA Code of Ordinances. All responses contained on said checklist indicate compliance with the environmental threshold carrying capacities. A copy of the completed checklist will be made available at the Hearings Officer meeting and at the TRPA offices.

- (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.

The project will comply with all applicable air and water quality standards.

2. Chapter 18.1 and 51.1 – Special Use 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.

The project is accessory to the primary residential use and as designed and conditioned in the Draft Permit is the most

appropriate solution for compliance with the fire code flow requirements given the limited viable options available for the project area.

- (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.

The project provides neighborhood benefit and will not increase the risk of injury, nor will it adversely affect the health, safety, and enjoyment of property for the neighborhood and region. The project includes measures to protect public health and safety and protect natural resources on the applicant's property and surroundings.

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

The project will not change the residential character of the neighborhood and thereby comports with the purpose of the Sunnyside/Skyland Plan Area Statement. Water intake lines exist throughout the plan area, and replacement and expansion of the subject intake line for emergency purposes will not detrimentally affect or alter the area.

3. Chapter 50.3. – Shorezone and Lakezone projects Significant Harm

- (a) The project will not adversely impact:
- (1) Littoral Processes; the profile of the pipeline is not large enough to adversely impact littoral processes.
  - (2) Fish Spawning; Additional lakebed disturbance resulting from the increased pipeline diameter and pump casing will be mitigated onsite at a ratio of 1.5:1 in compliance with the Partial Shorezone Permitting Program authorized by the TRPA Governing Board in Resolution 2011-09, currently in effect
  - (3) Backshore Stability; The replacement pipe will be buried in the backshore and required temporary BMPs will be in place throughout construction. All areas of the backshore disturbed by the project shall be stabilized upon project completion.

- (4) On-shore wildlife habitat, incl. wildfowl nesting areas; the project will not adversely impact any wildlife or wildlife habitat.
- (b) Accessory Facilities: There are appropriate facilities to make this finding.
- (c) Compatibility: The project is consistent with other shorezone uses.
- (d) Use: The use is water dependent
- (e) Hazardous Materials: Measures will be taken to prevent spills or discharges of hazardous materials, and all best construction practices will be employed during project implementation.
- (f) Construction: Construction and access techniques will minimize disturbance to the ground and vegetation.
- (g) Navigation and Safety: The project will not cause a threat to public navigation and safety on Lake Tahoe. The applicant will be required to obtain separate approval from California State Lands.
- (h) Other Agency Comments: The project was reviewed and discussed at the May 2011 TRPA Interagency Shorezone Committee meeting. It is the permittee's responsibility to obtain authorization and maintain compliance with all applicable state, federal, and local regulations for the water intake line at all times.

Attachment B - Draft Permit

PROJECT DESCRIPTION: Water Intake Line Addition/Modification

APN: 084-172-005

FILE: ERSP2011-0666

PERMITTEE: 2280 Sunnyside Lane, LLC

COUNTY/LOCATION: Placer County/2280 Sunnyside Lane

Having made the findings required by Agency ordinances and rules, TRPA Hearings Officer approved the project on July 21, 2011, subject to the standard conditions of approval attached hereto (Attachment S) and the special conditions found in this permit.

This permit shall expire on July 21, 2014, without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of pouring concrete for a foundation and does not include grading, installation of utilities or landscaping. Diligent pursuit is defined as completion of the project within the approved construction schedule. The expiration date shall not be extended unless the project is determined by TRPA to be the subject of legal action which delayed or rendered impossible the diligent pursuit of the permit.

NO GRADING or CONSTRUCTION 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-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT;
- (3) THE PERMITTEE OBTAINS A COUNTY BUILDING PERMIT, IF REQUIRED. TRPA'S ACKNOWLEDGEMENT IS NECESSARY TO OBTAIN A COUNTY BUILDING PERMIT. THE COUNTY PERMIT AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS; AND
- (4) A TRPA PRE-GRADING INSPECTION HAS BEEN CONDUCTED WITH THE PROPERTY OWNER AND/OR THE CONTRACTOR.

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

\_\_\_\_\_  
Date

PERMITTEES' 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 \_\_\_\_\_ Date \_\_\_\_\_  
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(PERMIT CONTINUED ON NEXT PAGE)

D-R-A-F-T

APN 084-172-005  
FILE NO. ERSP2011-0666

Habitat Restoration Effectiveness Monitoring (1): Amount \$300.00 Paid \_\_\_ Receipt No. \_\_

Security Posted (2): Amount \$20,000.00 Type CD Paid 8/19/10 Receipt ERSP2009-2280

Notes:

- (1) See Special Condition 3.D., below.
- (2) See Special Condition 3.E., below.

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

TRPA ACKNOWLEDGEMENT: The permittee has complied with all pre-construction conditions of approval as of this date and is eligible for a county building permit:

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

\_\_\_\_\_  
Date

*SPECIAL CONDITIONS*

1. This permit specifically authorizes replacement of and expansion of a water intake line with associated pump and appurtenances, to supply water to a residential fire suppression system located on Assessor's Parcel Number 084-172-005. Additional disturbance attributed to the increase pipe diameter and pump casing is within Prime Fish Habitat and shall be mitigated in accordance to the Partial Shorezone Permitting Program authorized by the TRPA Governing Board in Resolution 2011-09. Excavation shall not exceed five feet below grade. This approval is based on the site plans submitted to TRPA on April 7, 2011. No additional land coverage or change to existing approved land coverage is authorized with this permit.
2. The Standard Conditions of Approval listed in Attachment S shall apply to this permit.
3. Prior to final permit acknowledgement the following conditions of approval shall be satisfied.
  - A. The site plan shall be revised to include:
    - (1) Removal of sandbagged collar located in the foreshore and replacement with a water-filled dam as a temporary BMP measure (staff will provide details). Revise associated construction methodology note #5 accordingly.

(2) Add note stating: "All areas disturbed by construction shall be revegetated in accordance with the TRPA Handbook of Best Management Practices, and Living with Fire, Lake Tahoe Basin, Second Edition."

B. The permittee shall submit an mitigation plan for the additional disturbance of Prime Fish Habitat, which includes replacement of the impacted habitat at a rate of 1:1.5 using one of the following methods, or a combination thereof:

- (1) Replacement on the same parcel or project area "in-kind" with similar habitat which previously existed. Such replacement must replace the equal or greater function and value.
- (2) Construction of complimentary habitat adjoining the remaining habitat on-site, where it can be demonstrated that the complimentary habitat will restore or enhance the habitat by substantially increasing the function and value.

The mitigation plan shall include:

- (1) A map identifying the proposed locations of spawning habitat mitigation, and
- (2) A monitoring plan to address the implementation and effectiveness of the mitigation including a pre-project survey of the project area that addresses existing conditions on the site, and an implementation component which demonstrates that the mitigation meets the requirements above, and
- (3) An effectiveness monitoring component that addresses the long term effectiveness of the mitigation. Effectiveness monitoring shall occur once a year for a period of three years following the mitigation, and be capable of demonstrating that the mitigated habitat continues to be suitable as spawning habitat. See Special Condition #5, below.

C. Submit a copy of the Tahoe Yellow Cress survey and Management Plan as required by the California State Lands Commission. The permittee shall comply with all Management Plan requirements. The plan shall include, but not be limited to construction methodology, vegetation protection fencing, limitations on vehicle and pedestrian access, construction staging, site plan illustration of TYC areas and fencing protection, monitoring during construction, which may include beach raking limitations, pedestrian access limitations, and avoidance of population disturbance. TYC Management Plan requirements shall be consistent, and be revised if necessary, for conformance with California State Lands Commission requirements.

- D. Payment of a \$300.00 habitat restoration effectiveness report monitoring fee. See Special Condition #5, below.
  - E. The \$20,000.00 TRPA project security being held for compliance with TRPA Files #ERSP2009-2280 and ERSP2011-0673 shall also be applied to this permit.
  - F. The permittee shall provide (3) three sets of the final plans for TRPA acknowledgement.
4. The project may be subject to the permitting requirements of other applicable agencies with jurisdiction over the proposed project activities, including the U.S. Army Corps of Engineers, California State Lands Commission, Lahontan Regional Water Quality Control Board, California Department of Fish and Game, and all applicable Placer County Departments.
  5. The permittee shall submit an annual habitat restoration effectiveness monitoring report for 3 years following completion of the project, due no later than November 1 of each year. The report shall demonstrate compliance with spawning habitat mitigation requirements pursuant to Special Condition 3.B. of this permit, or additional fish habitat mitigation measures may be required. Payment of a \$300.00 monitoring fee is required prior to the acknowledgement per Special Condition 3.D., above, and may be subject to additional future billing. Field inspection and administrative costs related to monitoring will be charged against the fee.
  6. The permittee shall submit a projected construction completion schedule to TRPA prior to commencement of construction. Said schedule shall include completion dates for each item of construction, as well as BMP installation for the entire project area.
  7. All imported rock materials shall be washed clean and free of dirt and organic materials prior to importation to the project site.
  8. 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.
  9. 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

