



MEMORANDUM

Date: September 8, 2011
To: TRPA Hearings Officer
From: TRPA Staff
Subject: Sierra Pacific Power Company/NV Energy installation of a sound wall and oil containment system for the Glenbrook Substation, 2005 The Back Road, Glenbrook, Douglas County, Assessor's Parcel Numbers 1418-11-303-004 and 1418-11-311-001 & 002, TRPA File Number ERSP2011-0907

Requested Action: Hearings Officer action on the proposed 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.

Required Motions: In order to approve the proposed project, the Hearings Officer must make the following motions, based on this staff summary and the evidence in the record:

- 1) A motion to approve the required findings (see Attachment A), including a finding of no significant effect; and 2) A motion to approve the proposed project subject to the conditions contained in the draft permit (see Attachment B).

Project Description/Background: Sierra Pacific Power Company/NV Energy is proposing to install a sound wall at the Glenbrook Substation parcel. The applicant has received noise complaints from a neighbor and the sound wall is a solution to the identified problem. In addition, the application is proposing to install a secondary oil containment system to comply with Federal EPA requirements.

The Sierra Pacific Power Company/NV Energy parcel is not a part of the Glenbrook subdivision. The two adjacent residential parcels are a part of the Glenbrook subdivision, and as such, have assigned allowable land coverage for the parcels.

Issues/Concerns: The proposed project (pipeline and power transmission) is a special use within Plan Area Statements 058 – Glenbrook, and therefore requires Hearings Officer review in accordance with Chapter 4, Appendix A, of the TRPA Code of Ordinances.

The land capability for the Sierra Pacific Power Company/NV Energy parcel has not been verified. As a condition of project approval, a Land Capability Verification (LCV) will be required. The mapped land capability for the parcel is Class 3. Because of the public service nature of the use, additional land coverage may be placed on low capability land with specific findings being made. These finding have been included in the staff summary. If the results of the LCV indicate the land is considered high

capability, separate findings are required. Both sets of findings are included in this staff summary to address both potential outcomes.

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 6, 18 and 20 of the TRPA Code of Ordinances (see Attachments A and C for details).

Contact Information: If you have any questions, please contact Mike Cavanaugh, Principal Planner at mcavanaugh@trpa.org or 775-589-5209.

Attachments:

- A. Required Findings/Rationale
- B. Draft Permit
- C. Regional Plan Compliance Analysis

Attachment A: Required Findings/Rationale

The following is a list of the required findings as set forth in Chapters 6, 18 and 20 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 6 – 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.

TRPA staff has reviewed the proposal and confirmed that the proposed project is consistent with the Regional Plan, and determined that the project will not adversely affect implementation of the Regional Plan.

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

TRPA staff has completed the “Project Review Conformance Checklist and Article V(g) Findings” in accordance with Chapter 6, Subsection 6.3.B 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 checklist will be made available at the Hearings Officer meeting and at TRPA.

- (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 TPRA Compact, the project meets or exceeds such standards.

(Refer to paragraph (b), above.)

2. Chapter 18 – Special Uses:

- (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 includes the installation of sound walls and a secondary spill containment system to serve the existing electrical power substation. The items to be installed are designed to protect the surrounding properties from the existing power substation land use. All proposed project items are considered accessory to the primary substation land use. No additional service capacity will be generated as a result of this project.

- (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 proposed project will address existing health, safety, enjoyment of property and general welfare issues. The sound wall will work to lower noise levels in the immediate vicinity of the existing substation and the secondary spill containment system is required by Federal Environmental Protection Agency (EPA) requirements (40 CFR 112) to protect adjacent water courses from impact of any potential oil spills.

- (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 proposed project items are accessory uses to the existing power substation. The project and land use are consistent with the Plan Area Statement, and will improve the existing impact of the power substation to the existing neighborhood and the application of the Regional Plan.

3. Chapter 20 – Land Coverage:

High Capability Land (potentially APN 1418-11-303-004)

- (a) The project is on the list of additional public service facilities if required pursuant to Section 33.5 of the TRPA Code of Ordinances.

The proposed sound wall and secondary oil spill containment system are considered accessory uses to the existing electrical power substation. No additional service capacity will be generated as a result of the project. This project is not considered an additional public service facility as defined in Section 33.5 and is not required to be on the list of additional public service facilities.

- (b) There is no feasible alternative that would reduce land coverage.

The project proposes the minimum necessary land coverage to install the secondary spill containment system required by the EPA. The land coverage associated with the proposed sound wall result from the footings necessary to install the wall. All other land coverage associated with the site is necessary for the function of the substation.

- (c) The project, because of its unusual configuration or service requirement, requires special consideration.

The project will serve to protect neighboring properties from impacts of the existing power substation.

- (d) The facility primarily serves the needs of persons other than those who are, or will be, residents of the lands in question, or the owners of the land in question.

The electrical substation serves the east shore and Glenbrook communities at Lake Tahoe. The proposed project will address concerns of immediate neighbors and the entire Lake Tahoe community.

Low Capability Land (APN 1418-11-311-002 & potentially 1418-11-303-004):

- (e) The project is necessary for public health, safety or environmental protection.

The proposed project is to construct accessory public health and safety elements to an existing electrical power substation. A secondary spill containment system is required by Federal EPA regulations and the sound walls are proposed for public health purposes.

- (f) There is no reasonable alternative, including relocation, which avoids or reduces the extent or encroachment in Land Capability Districts 1a, 1c, 2 and 3.

The placement of the sound wall and secondary spill containment system is dictated by the existing uses on the property. Each parcel has minimal existing land coverage and relocation is not feasible.

- (g) Impacts are fully mitigated and, if applicable, transferred land coverage requirements pursuant to 20.3.C(2)(e) are met.

As a conditional of project approval, all new land or transferred land coverage will be mitigated in accordance with TRPA requirements.

Attachment B: DRAFT PERMIT

PROJECT DESCRIPTION: Sound Wall & Spill Containment Installation

APNs 1418-11-303-004 and 1418-11-311-001 & 002

PERMITTEE(S): Sierra Pacific Power Company/NV Energy, Woodworth Family Trust, Ebb 2010 Trust

FILE # ERSP2011-0907

COUNTY/LOCATION: Douglas/2005 The Back Road, Glenbrook

Having made the findings required by Agency ordinances and rules, the TRPA Hearings Officer approved the project on September 15, 2011, subject to the standard conditions of approval attached hereto (Attachment Q) and the special conditions found in this permit.

This permit shall expire on September 15, 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 CONSTRUCTION OR GRADING 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. 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

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 _____
Sierra Pacific Power Co./NV Energy

Signature of Permittee(s) _____ Date _____
Woodward Family Trust

Signature of Permittee(s) _____ Date _____
Ebb 2010 Trust

PERMIT CONTINUED ON NEXT PAGE

**TRPA APN 1418-11-303-004 and 1418-11-311-001 & 002
FILE NO. ERSP2011-0907**

Water Quality Mitigation Fee (1): Amount \$109.74 Paid _____ Receipt No. _____

Water Quality Mitigation Fee (2): Amount \$ _____ Paid _____ Receipt No. _____

Excess Coverage Mitigation Fee (3): Amount \$ _____ Paid _____ Receipt No. _____

Security Posted (4): Amount \$ _____ Type ____ Paid _____ Receipt No. _____

Security Administrative Fee (5): Amount \$ _____ Paid _____ Receipt No. _____

Security Posted (6): Amount \$ _____ Type ____ Paid _____ Receipt No. _____

Security Administrative Fee (5): Amount \$ _____ Paid _____ Receipt No. _____

Security Posted (7): Amount \$ _____ Type ____ Paid _____ Receipt No. _____

Security Administrative Fee (5): Amount \$ _____ Paid _____ Receipt No. _____

Notes:

- (1) See Special Condition 3.N, below
- (2) Amount to be determined. See Special Condition 3.M, below.
- (3) See Special Condition 3.O, below.
- (4) Amount to be determined. See Special Condition 3.J, below.
- (5) \$152 if a cash security is posted, or \$135 if a non-cash security is posted.
- (6) Amount to be determined. See Special Condition 3.K, below.
- (7) Amount to be determined. See Special Condition 3.L, 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 permit:

TRPA Executive Director/Designee

Date

SPECIAL CONDITIONS

1. This project proposes the installation of a sound wall and a secondary spill containment system at the existing Glenbrook Sierra Pacific Power Company/NV Energy substation. The sound wall will be built within an easement area on both APN 1418-11-311-001 & 002. Both of these parcels are located within the

Glenbrook Subdivision and have assigned land coverage that is available for the land coverage associated with the sound wall. The SPPC/NV Energy parcel is not located within the Glenbrook Subdivision and does not have assigned land coverage. The secondary spill containment system will be built on the substation parcel. As a public health and safety feature, the additional land coverage associated with the system is eligible for transfer to the site, subject to the land coverage findings being made. The project also includes the requirement for the installation of Best Management Practices (BMPs) on all three parcels. No additional service capacity will be created at the substation as a result of this project.

2. The Standard Conditions of Approval listed in Attachment Q shall apply to this permit.
3. Prior to permit acknowledgement, the following conditions of approval must be satisfied.
 - A. A Land Capability Verification (LCV) application shall be submitted for APN 1418-11-303-004.
 - B. Land coverage calculations (allowable, existing and proposed), shall be provided for APN 1418-11-303-004 (SPPC/NV Energy parcel). Please note that the lined pond is considered land coverage.
 - C. Access to the substation site shall be identified on the site plan. If access is required to the substation all year, the driveway shall be paved and included in the land coverage calculations. The driveway area shall be the minimum necessary to provide adequate access.
 - D. The site plan shall be revised to document the following:
 - (1) All temporary erosion control, vegetation protection fencing and spoil piles shall only be located on the three parcels that area a part of this project.
 - (2) A notation that the verified land capability for APN 1418-11-311-001 is Class 5.
 - (3) A notation that the verified land capability for APN 1418-11-311-002 is Class 3.
 - (4) A notation that an additional 5 square feet of land coverage has been retired on APN 1418-11-311-002 in accordance with Section 20.4.A(2)(e).
 - E. Revegetation details for the areas disturbed by construction that are not covered by pavement shall be provided.

- F. The permittee shall transfer land coverage to the substation parcel (APN 1418-11-303-004) for the amount of proposed land coverage beyond the maximum allowed for the parcel. This number will be determined upon receiving the results of the LCV and the submittal of land coverage calculations for the substation parcel. All coverage transfers must be in compliance with Chapter 20 of the TRPA Code of Ordinances, and the TRPA Rules of Procedure.
- G. All required Best Management Practices (BMPs) for APN 1418-11-311-001 shall be shown on the site plan. The BMP calculations spreadsheet shall also be submitted documenting the sizing for the required BMPS. Please note that BMPS were required to be installed on this parcel prior to October 15, 2008. The necessary BMPS and installation requirements were also outlined in the Site Assessment dated July 14, 2011.
- H. All required Best Management Practices (BMPs) for APN 1418-11-311-002 shall be shown on the site plan. The BMP calculations spreadsheet shall also be submitted documenting the sizing for the required BMPS. Please note that BMPS were required to be installed on this parcel prior to October 15, 2008. The necessary BMPS and installation requirements were also outlined in the Site Assessment dated December 1, 2003.
- I. Identification of all required Best Management Practices (BMPs) for APN 1418-11-303-004 shall be shown on the site plan. The BMP calculations spreadsheet shall also be submitted documenting the sizing for the required BMPS. Please note that BMPS were required to be installed on this parcel prior to October 15, 2008.
- J. The security required for APN 1418-11-311-001 under Standard Condition I.B of Attachment Q shall be determined upon the permittee's submittal of required Best Management Practices plan and related cost estimate. Please see Attachment J, Security Procedures, for appropriate methods of posting the security and for calculation of the required security administration fee.
- K. The security required for APN 1418-11-311-002 under Standard Condition I.B of Attachment Q shall be determined upon the permittee's submittal of required Best Management Practices plan and related cost estimate. Please see Attachment J, Security Procedures, for appropriate methods of posting the security and for calculation of the required security administration fee.
- L. The security required for APN 1418-11-303-004 under Standard Condition I.B of Attachment Q shall be determined upon the permittee's submittal of required Best Management Practices plan and related cost estimate. Please see Attachment J, Security Procedures, for appropriate methods of posting the security and for calculation of the required security administration fee.

- M. A water quality mitigation fee shall be paid to TRPA. This fee is based on the creation of any new square footage allowed for APN 1418-11-303-004, excluding any land coverage that is to be transferred to the parcel at a rate of \$1.86/sq. ft. This fee, and its applicability, will be determined upon receiving the results of the Land Capability Verification.
- N. A water quality mitigation fee of \$109.74 shall be paid to TRPA. This fee is based on the creation of 59 square feet on APN 1418-11-311-001 assessed at a rate of \$1.86/sq. ft. (Note: no water quality mitigation fee is required for APN 1418-11-311-002 as the retirement of land coverage for low capability land is required as mitigation).
- O. Based upon the results of the Land Capability Verification for APN 1418-11-303-004, this property may have excess land coverage. The permittee shall mitigate a portion or all of the excess land coverage on this property by removing coverage within Hydrologic Transfer Area 3 or by submitting an excess coverage mitigation fee.

To calculate the amount of excess coverage to be removed, use the following formula:

Estimated project construction cost multiplied by the fee percentage (as identified in Table A of Subsection 20.5.A.(3), Chapter 20 of the TRPA Code of Ordinances) divided by the mitigation factor of 8. If you choose this option, please revise your final site plans and land coverage calculations to account for the permanent coverage removal.

An excess land coverage mitigation fee may be paid in lieu of permanently retiring land coverage. The excess coverage mitigation fee shall be calculated as follows:

Coverage reduction square footage (as determined by formula above) multiplied by the coverage mitigation cost fee of \$25.00 for projects within Hydrologic Transfer Area 3. Please provide a construction cost estimate by your licensed contractor, architect or engineer. In no case shall the mitigation fee be less than \$200.00.

<i>Hydrologic Transfer Area</i>	<i>Fee Per Sq. Ft.</i>
Area 1 – Incline	\$20.00
Area 2 – Marlette	\$12.00
Area 3 – Cave Rock	\$25.00
Area 4 – South Stateline (Nevada side)	\$15.00

Area 4 – South Stateline (California side)	\$8.50
Area 5 – Upper Truckee	\$8.50
Area 6 – Emerald Bay	\$8.50
Area 7 – McKinney Bay	\$8.50
Area 8 – Tahoe City	\$8.50
Area 9 – Agate Bay (California side)	\$8.50
Area 9 – Agate Bay (Nevada side)	\$18.00

This fee, and its applicability, will be determined upon receiving the results of the Land Capability Verification and the requested land coverage calculations for APN 1418-11-303-004.

- P. The permittee shall submit three sets of final construction drawings and site plans to TRPA.
4. This permit does not authorize the removal of any trees.
 5. The construction staging area shall be placed over existing pavement or existing disturbed areas only.
 6. The permittee shall submit a projected construction completion schedule to TRPA prior to or at the TRPA pre-grade inspection. Said schedule shall include completion dates for each item of construction, as well as BMP installation for the entire project area.
 7. To the maximum extent allowable by law, the Permittee agrees to indemnify, defend, and hold harmless TRPA, its Governing Board, its Planning Commission, its agents, and its employees (collectively, TRPA) from and against any and all suits, losses, damages, injuries, liabilities, and claims by any person (a) for any injury (including death) or damage to person or property or (b) to set aside, attack, void, modify, amend, or annul any actions of TRPA. The foregoing indemnity obligation applies, without limitation, to any and all suits, losses, damages, injuries, liabilities, and claims by any person from any cause whatsoever arising out of or in connection with either directly or indirectly, and in whole or in part (1) the processing, conditioning, issuance, or implementation of this permit; (2) any failure to comply with all applicable laws and regulations; or (3) the design, installation, or operation of any improvements, regardless of whether the actions or omissions are alleged to be caused by TRPA or Permittee.

Included within the Permittee's indemnity obligation set forth herein, the Permittee agrees to pay all fees of TRPA's attorneys and all other costs and expenses of defenses as they are incurred, including reimbursement of TRPA as

necessary for any and all costs and/or fees incurred by TRPA for actions arising directly or indirectly from issuance or implementation of this permit. Permittee shall also pay all costs, including attorneys' fees, incurred by TRPA to enforce this indemnification agreement. If any judgment is rendered against TRPA in any action subject to this indemnification, the Permittee shall, at its expense, satisfy and discharge the same.

END OF PERMIT

Attachment C: Regional Plan Compliance Analysis

A. Plan Area Statement/Community Plan:

The project is located within Plan Area Statements 058 - Glenbrook. The Land Use Classification is Residential with a Management Strategy of Mitigation. Pipelines and Power Transmissions are a special use for the Plan Area Statement. Agency staff has reviewed the Plan Area Statement and has determined that the project, as conditioned in the attached permit, is consistent with the applicable planning statements, planning considerations, and special policies, and is considered a permissible use.

B. Land Coverage:

The proposed project is to install public health and safety items at an existing electrical substation. The findings for allowing the transfer of additional land coverage to the site, and the findings to allow for the placement of new land coverage in low capability land are included in Attachment A of this staff summary. The land coverage that is proposed for the project is associated with footings for a sound wall which will serve to protect the neighborhood from noise associated with the existing equipment, and land coverage associated with a lined pond to act as a secondary spill containment system for oil that is used in the operation of the substation. The secondary spill containment system is required by Federal Code 40 CFR 112.