

TAHOE REGIONAL PLANNING AGENCY (TRPA)
AND TRPA COMMITTEE MEETINGS

NOTICE IS HEREBY GIVEN that on **Wednesday, June 25, 2008**, commencing at **9:30 a.m.** at the Chateau, 955 Fairway Blvd., Incline Village, NV., and on **Thursday, June 26, 2008**, commencing at **9:00 a.m.** at the TRPA Offices, 128 Market Street, Stateline, NV., the **Governing Board** of the Tahoe Regional Planning Agency will conduct its regular meeting. The agenda is attached hereto and made a part of this notice.

NOTICE IS FURTHER GIVEN that on **Wednesday, June 25, 2008**, commencing at **8:30 a.m.**, at the Chateau, the TRPA **Legal Committee** will meet. The agenda will be as follows: **1)** Public Interest Comments; **2)** Resolution of Enforcement Action, MSM Tahoe Properties LLC and John Kruger, Unauthorized Material Damage to Trees, 1040 West Lake Boulevard, Placer County, California, Assessor's Parcel Number (APN) 083-183-004; **(Page 83)** **3)** Request to Reopen the Approved Settlement Agreement in TRPA v. Bluth (Case No. CV-N-04-0419 LRH (RAM) to Allow for Re-negotiation to Redirect a Portion of the Settlement Payment; **(Page 181)** **(4)** Closed Session with Counsel to Discuss Existing and Potential Litigation; **5)** Potential Direction Regarding Agenda Item No. 4; and **6)** Member Comments; (Committee: Chair – Waldie, Vice Chair – Aldean, Biaggi, Santiago, Miller, Bresnick, Yount)

NOTICE IS FURTHER GIVEN that on **Wednesday, June 25, 2008**, commencing at **8:30 a.m.**, at the Chateau, the TRPA **Operations Committee** will meet. The agenda will be as follows: **1)** Public Interest Comments; **2)** Acceptance of May Monthly Financial Statement; **(Page 1)** **3)** Adoption of Agency's 5-Year Strategic Plan and FY 08/09 Work Program; **(Page 29)** **4)** Adoption of Agency's FY 08/09 Budget; **(Page 53)** **5)** Resolution Allocating FY 2007-2008 Local Transportation Funds (\$204,904) to El Dorado County for its BlueGO Curb to Curb Transit Service Operating Assistance; **(Page 107)** **6)** Preliminary Fiscal Year 2008/2009 Transportation Development Act Local Transportation Fund and State Transit Assistance Apportionments; **(Page 145)** and **7)** Member Comments; (Committee: Chair - Merrill, Vice Chair – Open, Weber, Kranz, McDermid, Ruthe, Open)

NOTICE IS FURTHER GIVEN that on **Thursday, June 26, 2008**, commencing at **noon.**, at the TRPA Offices, the TRPA **Public Outreach/Environmental Education Committee** will meet. The agenda will be as follows: **1)** Public Interest Comments; **2)** Communications Update and Public Education Overview; EIP Update; Public Messaging on Erosion Control and Fire Defensible Space; Invasive Species Outreach and Regional Plan Update Outreach; and **3)** Member Comments (Committee: Chair – Santiago, Vice Chair – Yount, Swobe, Aldean, McDermid, Miller, Merrill)

June 18, 2008

A handwritten signature in black ink, appearing to read "John Singlaub". The signature is written in a cursive style with a prominent horizontal line above the first few letters.

John Singlaub Executive Director

This agenda has been posted at the TRPA office and at the following post offices: Zephyr Cove and Stateline, Nevada and Tahoe Valley and AI Tahoe, California. The agenda has also been posted at the North Tahoe Conference Center in Kings Beach, the Incline Village GID office and the North Lake Tahoe Chamber of Commerce.

TAHOE REGIONAL PLANNING AGENCY	
GOVERNING BOARD	
The Chateau	June 25, 2008
955 Fairway Blvd.	9:30 a.m.
Incline Village, NV	
TRPA	June 26, 2008
128 Market Street	9:00 a.m.
Stateline, NV	

All items on this agenda are action items unless otherwise noted. Items on the agenda, unless designated for a specific time, may not necessarily be considered in the order in which they appear and may, for good cause, be continued until a later date.

PLEASE NOTE: Unless specifically azenized as time certain, any agenda item not heard on Wednesday, June 25 will be heard on Thursday, June 26, 2008 at the TRPA offices.

All public comments should be as brief and concise as possible so that all who wish to speak may do so; testimony should not be repeated. The Chair of the Board shall have the discretion to set appropriate time allotments **(3-minutes for individuals and 5-minutes for group representatives)**. No extra time for speakers will be permitted by the ceding of time to others. Written comments of any length are always welcome. So that names may be accurately recorded in the minutes, persons who wish to comment are requested to sign in by Agenda Item on the sheets available at each meeting.

TRPA will make reasonable efforts to assist and accommodate physically handicapped persons that wish to attend the meeting. Please contact Judy Nikkel at (775) 589-5243 if you would like to attend the meeting and are in need of assistance.

AGENDA

- I. CALL TO ORDER AND DETERMINATION OF QUORUM
- II. PLEDGE OF ALLEGIANCE
- III. PUBLIC INTEREST COMMENTS – All comments may be limited by the Chair.

Any member of the public wishing to address the Governing Board on any item not listed on the agenda may do so at this time. However, public comment on Project Review, Public Hearing, and Appeal items will be taken at the time those agenda items are heard. The Governing Board is prohibited by law from taking immediate action on or discussing issues raised by the public that are not listed on this agenda.

- IV. APPROVAL OF AGENDA

V. APPROVAL OF MINUTES

VI. CONSENT CALENDAR (see Consent Calendar agenda below, for specific items)

VII. GOVERNING BOARD MEMBER REPORTS

Adjourn as the TRPA and convene as the TMPO

VIII. TAHOE METROPOLITAN PLANNING ORGANIZATION

- A. 2008 Regional Transportation Plan Update Presentation [Page 187](#)
- B. Approval by Resolution of Formal Amendment #9 to the TMPO 2007 Federal Transportation Improvement Program (FTIP) (**Any 8 votes**) [Page 191](#)

Adjourn as the TMPO and reconvene as the TRPA

IX. PUBLIC HEARINGS

- A. Certification of the Kings Beach Commercial Core Improvement Project Final Environmental Assessment/Environmental Impact Report/Environmental Impact Statement (EA/EIR/EIS) (**time certain 10:00 a.m., Wednesday, June 25, 2008**) (**5CA-9 total votes**) [Page 195](#)
- B. Amendments to the Kings Beach Community Plan, and Other Matters Related Thereto (**to be acted upon only after the EIS for Agenda Item IX.A is certified**) (**4CA-4NV vote**) [Page 237](#)

X. PROJECTS

- A. Kings Beach Commercial Core Improvement Project, Placer County, California, TRPA Project Number 530-105-03, TRPA File Number 20031259 (**to be acted upon only after the EIS for Agenda Item IX.A is certified**) (**5CA-9 total votes**) [Page 265](#)
- B. McCosker Pier Expansion/Rebuild, 3051 Jameson Beach Road, El Dorado County, California, APNs 032-110-28 and 032-110-29, TRPA File No. 20062005 (**5CA-9 total votes**) [Page 437](#)
- C. Lake Tahoe Cruises, Private Charter Excursions, APN 027-690-06, TRPA File No. 20051495 (**hearing on Thursday, June 26, 2008**) (**5NV-9 total votes**) [Page 459](#)

XI. APPEALS

- A. Hideaway Properties LLC, Appeal of Executive Director's Decision, 432 Gonowabie Road, Washoe County, APN 123-145-09 (**hearing on**) [Page 477](#)

Wednesday, June 25, 2008)
(5NV-9 total votes)

XII. PLANNING MATTERS

- A. Presentation of Proposed Revisions to Shorezone Program Description and Draft Code of Ordinances, and Request for Board Direction on Policy and Process Issues
(time certain 9:00 a.m. Thursday, June 26, 2008)
(Any 8 votes)

[Page 577](#)

XIII. REPORTS

- A. Executive Director Status Report
1. Monthly Report on Permit Processing
 2. CEP Update
 3. Regional Plan Update
 4. Forest Fuels Management Update
 5. Agency Work Program Priorities for July
- B. Legal Division Status Report

[Page 743](#)

XIV. COMMITTEE REPORTS

- A. Legal Committee
- B. Operations Committee
- C. Public Outreach/Environmental Education

The meeting on Thursday, June 26 will take place at the TRPA Offices located at 128 Market Street, Stateline, NV, beginning at 9:00 a.m.

XV. ADJOURNMENT

CONSENT CALENDAR

<u>Item</u>	<u>Recommendation</u>	
1. Acceptance of May 2008 Monthly Financial Statement (Any 8 vote)	Acceptance	Page 1
2. Adoption of Agency's 5-Year Strategic Plan and FY 08/09 Work Program (Any 8 vote)	Approval	Page 29
3. Adoption of Agency's FY 08/09 Budget (Any 8 vote)	Approval	Page 53
4. Resolution of Enforcement Action, MSM Tahoe Properties LLC and John Kruger, Unauthorized Material Damage to Trees,	Approval	Page 83

1040 West Lake Boulevard, Placer County, California, Assessor's Parcel Number (APN) 083-183-004

(5CA-9 total vote)

- | | | | |
|-----|---|----------|--------------------------|
| 5. | Franciscan Owners Association Pier Expansion, 6944 North Lake Blvd, Placer County, California, APN 117-080-065, TRPA File #ERSP2007-0723
(5CA-9 total vote) | Approval | Page 87 |
| 6. | Resolution Allocating FY 2007-2008 Local Transportation Funds (\$204,904) to El Dorado County for its BlueGO Curb to Curb Transit Service Operating Assistance
(Any 8 vote) | Approval | Page 107 |
| 7. | Approval to Add Five New Members to the Social Services Transportation Advisory Council and to Adopt Bylaws for the Council
(Any 8 vote) | Approval | Page 135 |
| 8. | Preliminary Fiscal Year 2008/2009 Transportation Development Act Local Transportation Fund and State Transit Assistance Apportionments
(Any 8 vote) | Approval | Page 145 |
| 9. | California Conservation Corps Addition/Expansion, 949 Apache Avenue, Meyers, CA, El Dorado County APN: 034-270-58, TRPA File No. ERSP2008-0069
(5CA-9 total votes) | Approval | Page 157 |
| 10. | Request to Reopen the Approved Settlement Agreement in TRPA v. Bluth (Case No. CV-N-04-0419 LRH (RAM) to Allow for Re-negotiation to Redirect a Portion of the Settlement Payment
(5NV-9 total votes) | Approval | Page 181 |

The consent calendar items are expected to be routine and non-controversial. They will be acted upon by the Board at one time without discussion. The special use determinations will be removed from the calendar at the request of any member of the public and taken up separately. If any Board member or noticed affected property owner requests that an item be removed from the calendar, it will be taken up separately in the appropriate agenda category.

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

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each State agreeing with the vote of at least four members of the other State shall be required to take action. If there is no vote of at least four of the members from one State agreeing with the vote of at least four of the members of the other State on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken. (2) For approving a project, the affirmative vote of at least five members from the State in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the State in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to

approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency. (3) For routine business and for directing the agency's staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

Article III (g) Public Law 96-551 Tahoe Regional Planning Agency Governing Board Members: Chair, Mara Bresnick, California Assembly Speaker's Appointee; Vice-Chair, Allen Biaggi, Director of Nevada Dept. of Conservation & Natural Resources; Shelly Aldean, Carson City Supervisor; Jim Galloway, Washoe County Commissioner; Bruce Kranz, Placer County Supervisor; Nancy McDermid, Douglas County Commissioner; Steven Merrill, California Governor's Appointee; Tim Leslie, California Governor's Appointee; Ross Miller, Nevada Secretary of State; Donna Ruthe, Nevada Governor's Appointee; Norma Santiago, El Dorado County Supervisor; Coe Swobe, Nevada At-Large Member; Jerome Waldie, California Senate Rules Committee Appointee; Mike Weber, City of South Lake Tahoe Council; Stuart Yount, Presidential Appointee.

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MEMORANDUM

To: TRPA Governing Board

From: TRPA Staff

Date: June 16, 2008

Subject: McCosker Pier Expansion/Rebuild, 3051 Jameson Beach Road, El Dorado County, California, APNs 032-110-28 and 032-110-29, TRPA File #20062005

Requested Action: Governing Board action on the proposed project and a finding of no significant environmental effect.

Staff Recommendation: Staff recommends that the Governing Board make the required findings and approve the proposed project.

Required Motion(s): To approve the proposed project, the Board 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).

In order for the motion(s) to pass, an affirmative 5-9 vote (5 California, 9 total) of the Board is required.

Project Description/Background: The applicant is proposing to demolish an existing 92 foot long single-use pier and relocate it on the adjoining vacant eastern parcel, in addition to expanding it an additional 59 linear feet for a total of 151 feet. As part of the expansion, the pier will include one catwalk. The project was originally proposed to include a 12,000 pound boatlift, but due to scenic concerns in the neighboring scenic unit, Pope Beach, this can not be approved (See discussion in Attachment C). Current site plans and elevations show the boat lift, but the draft permit has been conditioned to remove this feature in the final plans. The proposed pier is seven feet wide with a pierhead measuring 13 feet in width and 45 feet in length. The proposed pier will be of single piling design and constructed of steel pilings and beams and composite decking. Exterior Turtle lighting consistent with TRPA exterior lighting standards is proposed for the pier. The dimensions of the proposed pier and accessory structure are consistent with the TRPA Design Standards Chapter 30 and with Design and Construction Standards for Piers in Chapter 54, TRPA Code of Ordinances. The project involves the removal of 167 square feet of land coverage within the Backshore, the relocation of 60 square feet of that coverage and subsequent retirement of 30 square feet of that coverage. Seventy-seven square feet of coverage will be banked as a result of this project

Construction staging and access will occur solely by amphibious vehicle. At the discretion of the TRPA Compliance Inspector, turbidity curtains and/or caissons may be required. The

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Governing Board Agenda Item X.B

project includes temporary BMPs for soil and vegetation protection as well as the installation of permanent BMPs. This project was considered by all permitting agencies during the February 2008 Interagency Shorezone Coordination Group meeting.

This project was originally submitted as a multiple-use pier. El Dorado County had recently discovered three historic lots of record underlying APN 032-110-12, two of which are littoral. One of the littoral lots is vacant and comprised completely of Class 1b SEZ. TRPA Soils Team staff reviewed the vacant lot and, though no official IPES determination was made, it was determined that the lot would likely receive an IPES score of zero and be undevelopable, due to being comprised solely of SEZ. The vacant lot would have to be developable with a primary use to be eligible for an accessory use such as a pier. To make multiple use findings, shorezone development potential must be reduced, and both lots in question must be eligible for a pier. The vacant lot would require an IPES score greater than zero. The applicant was invited to apply for an IPES score, but did not due to the land capability verified in the project area. The pier was redesigned to meet single use pier development standards. Due to restrictions in the adjacent Scenic Resource, the proposed boatlift could not be approved. The applicant would like a second catwalk while staying within the approvable dimensions of a single use pier and in lieu of the proposed boatlift, but this not allowed in the TRPA Code of Ordinances.

Site Description: The project is located at 3051 Jameson Beach Road, El Dorado County, California. The project area consists of three parcels, APN 032-110-28, 032-110-29 and 032-110-27. Combined together, these three parcels were formerly identified as APN 032-110-12. An El Dorado Site Assessment was completed for APN 032-110-12 on February 26, 2006 and TRPA Baseline Scenic Assessment (TRPA File #20060964), was completed on October 31, 2006.

The site assessment verified two residential units of use for the project area. The total project area is 28,079 square feet and has been verified as Land Capability Class 1b, resulting in 281 square feet of base allowable coverage. A total of 7,690 square feet of existing coverage has been verified. An additional 70 square feet of existing coverage is present in the form of a shed and old sewer tank, however this coverage was not verified by TRPA as legally existing and shall be removed and revegetated prior to security return. Existing vegetation in the project area consists of a mix of pine, willows and other native plants. Coarse sands, gentle slopes and 2 pine trees characterize the Backshore area.

The project area is located within Plan Area Statement (PAS) 127, Camp Richardson and in Shorezone Tolerance District 1. Single-family homes and piers are considered special uses in this PAS. The project area is surrounded by existing single family development and associated shorezone accessory uses. Camp Richardson is located approximately one-half mile to the west of the subject parcel.

Issues/Concerns:

- Scenic quality
- Construction Methodology and BMPs
- Vegetation Resources
- Beach Access

See Attachment C for a discussion of issues and concerns.

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, 20, 50, 51, 52, 53, and 55 of the TRPA Code of Ordinances (see Attachment D for details).

Attachments:

- Required Findings/Rationale (Attachment A)
- Draft Permit, Ordinance or Resolution (Attachment B)
- Issues/Concerns Discussion (Attachment C)
- Regional Plan Compliance Analysis (Attachment D)
- Site Plans & Elevation Drawings (Attachment E)

Attachment A – Required Findings

- A. The following is a list of the required findings as set forth in Chapters 6, 20, 50, 51, 52, 53, and 55 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 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.
 - (1) Land Use: The proposed project involves the expansion of an existing pier for the privately owned subject parcel. The project is consistent with the goals and policies of the Regional Plan in that it: a) directs the amount and location of new land use appropriately; b) promotes the use of the waters of the Region for water-dependent outdoor recreation; and c) is conditioned to protect the scenic and natural qualities of Lake Tahoe and the surrounding area. The project is a special use within the Camp Richardson Plan Area Statement and is consistent with the permissible uses outlined in the Shorezone Chapters of the TRPA Code. The Land Use Classification in this area is recreation. The pier is an accessory structure to the existing Residential use, which is a special use in this PAS. The placement of the proposed pier is also consistent with the TRPA Code of Ordinances, Chapter 54, Pier Location Standards. Section 54.4 specifically states a maximum of one pier may be permitted per littoral parcel. The placement of the pier must be consistent with the location, design and construction standards outlined in TRPA Code Section 54.
 - (2) Transportation: The proposed pier will serve the homeowners of the affected parcel and, as such, will not result in an increase of daily vehicle trip ends (dvte) to the subject parcel or vehicle miles traveled (VMT).
 - (3) Conservation: The project, as conditioned, is consistent with the Conservation Element of the Regional Plan. Please refer to Attachment C for discussion on scenic quality and vegetative resources. This project will not result in the obstruction or degradation of any TRPA identified scenic vistas or views open to the public. The draft permit is conditioned to ensure that a Tahoe Yellow Cress Survey is conducted prior to the commencement of construction. The survey shall take place between June 15 and September 15 when the plant is visible and identifiable (See Draft permit condition 3.H). There are no known special interest animal species or cultural resources within the project area.

- (4) Recreation: This project does not require any additions to public recreational facilities. The project will provide private recreational opportunities for the single family dwellings in the project area.
- (5) Public Service Facilities: This project does not require any additions to public services or facilities.
- (6) Implementation: The proposed project does not require any allocations of development.

- 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.B 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 Governing Board hearing 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.

(Refer to paragraph 1.b, above.)

2. Land Coverage Findings (Chapter 20)

- a. The land coverage relocation is to an equal or superior portion of the parcel or project area.

The land coverage relocation is to an equal or superior portion of the project area. Coverage removal will occur on both the sandy beach portion of the backshore as well as in an area which supports vegetation located upland and closer to the backshore boundary. Coverage will be relocated onto an area of sandy beach which supports no vegetation.

- b. The area from which the land coverage was removed for relocation is restored in accordance with Subsection 20.4.C.

The proposed project will require 60 square feet of coverage to be relocated within the backshore for pier access. The relocation of land coverage from a higher class to a lower class is prohibited. In accordance with Subsection 55.4.D of the TRPA Code of Ordinances, the applicant will be required to restore an area of land in the backshore at a ratio of 1 to 1.5 times the amount of land in the backshore to be covered or, 90 square feet. The applicant will be removing 167 square feet of coverage in the backshore as a result of demolishing the existing pier and after mitigation will bank 77 square feet of Class 1b (Be) coverage.

- c. The relocation is not to Land Capability Districts 1a, 1b, 1c, 2 or 3 from any higher numbered land capability district.

No land coverage is proposed to be relocated from a higher land class to a lower class. The property contains only 1b land class. All relocation will occur within this land class and will be from an equal or superior portion of the property per 2.a above.

3. Shorezone Findings (Chapter 50):

- a. The proposed project will not adversely impact: (1) littoral processes; (2) fish spawning; (3) backshore stability; and (4) on-shore wildlife habitat, including wildfowl nesting areas.

(1) The proposed project will not have an impact on existing littoral processes. The proposed pier is a single-piling pier that will be not less than 90 percent open, allowing for free circulation of water.

(2) The proposed project is not located in mapped fish spawning habitat.

(3) The project, as conditioned, will not adversely impact backshore stability. All disturbed areas will be restored and revegetated with appropriate native species for the backshore site conditions. Temporary BMPs and vegetation protection fencing will be required to ensure existing backshore vegetation is protected during construction.

(4) The proposed project is not located within an area that is mapped as on-shore wildlife habitat nor has the site been shown to be a waterfowl nesting area.

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

The project area contains two single-family dwellings that provide sufficient access, parking and sanitation facilities to accommodate the project. The pier will be used by the property owners and their guests only.

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

The project is compatible with existing shorezone accessory uses (piers) in the vicinity. The proposed pier will not extend beyond the TRPA pierhead line. (See Draft Permit Condition 1).

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

The pier is located in the foreshore and nearshore of Lake Tahoe and is, by its nature, water-dependent.

- e. Measures will be taken to prevent spills or discharges of hazardous materials.

This approval prohibits the use of spray painting and the use of tributyltin (TBT). Also, conditions of approval prohibit the discharge of petroleum products, construction waste and litter (including sawdust), or earthen materials to the surface waters of the Lake Tahoe Basin. All surplus construction waste materials shall be removed from the project and deposited only at approved points of disposal (see Draft Permit Condition 7). No containers of fuel, paint, or other hazardous materials may be stored on the pier (See Draft Permit Condition 8).

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

The applicant shall not be permitted to store construction materials on the beach or in the backshore. Permanent disturbance to ground and vegetation is prohibited. The demolition of the existing pier and construction of the new pier will be accomplished from the lake by amphibious vehicle/barge. Minimal barge access shall be authorized in the backshore (See Draft Permit Condition 12). The permit has been conditioned to ensure construction methodology and schedules are approved prior to acknowledgement (See Draft Permit Condition 3.L).

- g. 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 proposed pier will not extend beyond the TRPA pierhead line or 6219.0 feet, Lake Tahoe Datum, whichever is more limiting. The U.S. Army Corps of Engineers must also review this project for navigational safety. During a meeting with the applicant and TRPA, the U.S. Army Corps of Engineers has indicated they plan to issue a General Permit 16 for this project and that no safety or navigation impacts have been identified, as long as the new pier is properly illuminated with the proposed Turtle lights. The project is not located beyond 350-feet (measured from the highwater mark, 6229.1 LTD). Therefore, it is located outside the general permitting jurisdiction of the U.S. Coast Guard.

- h. 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 this project.

This project must receive approval from the California State Lands, Lahontan Regional Water Quality Board, California Fish and Game, and the U.S. Army Corps of Engineers. The project was brought to the Shorezone Review Committee and agencies comments were considered during the review of the project. No other concerns or objections to the proposed project were raised.

4. Shorezone Findings (Chapter 51) – 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 primary use on the parcel is residential. According to the Plan Area Statement, Piers are considered a special use. The parcel is in a residential neighborhood and many littoral parcels in this area also have piers.

- 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, as proposed, will utilize best management practices during the removal and reconstruction/reconfiguration of the pier to ensure the project is not injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or neighboring properties.

- 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.

Many parcels in the Jameson Beach neighborhood have either older piers that do not conform to development standards or newer piers which do meet the current development standards. The relocation and rebuilding of this pier will not be out of character for this area and will more closely resemble the newer piers in the area. The newly relocated pier is consistent with current development standards.

5. Shorezone Findings (Chapter 52):

- a. The expansion decreases the extent to which the structure does not comply with the development standards and/or improves the ability to attain or maintain the environmental thresholds.

The proposed pier will be an open piling design and will meet all of TRPA's development standards. The proposed pier project is located within Scenic Shoreline Unit 3, Jameson Beach, which is in attainment with TRPA scenic quality thresholds. The applicants are proposing a scenic mitigation package that, if fully implemented, will result in an incremental improvement in the scenic quality of the scenic unit.

- b. The project complies with the requirements to install Best Management Practices (BMPs) as set forth in Chapter 25.

This project will require the installation and maintenance of all BMPs, including paving of the dirt drive and infiltration trenches for the driveway. All required

temporary and permanent BMPs will be installed as a condition of approval (See Draft Permit Condition 1)

- c. The project complies with the design standards in Section 53.10.

The project is consistent with TRPA Code Section 53.10. The decking and pilings are proposed to be dark brown color and shall be compatible with the surroundings.

- d. The structure has not been unserviceable for more than five years.

The existing pier remains serviceable.

6. Shorezone Findings (Chapter 53):

- a. Projects shall not be permitted in the backshore unless TRPA finds that such project is unlikely to accelerate or initiate backshore erosion.

Relocation and expansion of the existing pier will not result in an increase to backshore erosion. Access to the pier will be on the sandy beach.

7. Shorezone Findings (Chapter 55):

- a. Land coverage and land disturbance may be permitted in the backshore to provide access to an approved or legally existing structure or use located in the nearshore or foreshore , provided TRPA finds that the amount of land coverage proposed is the minimum necessary to provide access to the structure or use and the impacts of coverage and disturbance are mitigated in the manner prescribed in Subparagraph 55.4.A (5), which states: The impacts of the coverage and disturbance are mitigated to the extent feasible through means including, but not limited to , the following:

- 1) Application of BMPs; and

Refer to 5.b above.

- 2) Restoration in accordance with Subsection 20.4.C of land in the backshore or a stream environment zone in the amount of 1.5 times the area of land in the backshore covered or disturbed for the project beyond that permitted in Section 55.3.

Refer to 2.a above.

Attachment B – Draft Permit

PROJECT DESCRIPTION: McCosker Pier Rebuild/Expansion

APN: 032-110-28 AND -29

FILE NO. 20062005

PERMITTEES: Brian McCosker

COUNTY/LOCATION: El Dorado/3051 Jameson Road

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on June 25, 2008, subject to the standard conditions of approval attached hereto (Attachments S and Q) and the special conditions found in this permit.

This permit shall expire on June 25, 2011, without further notice unless the construction has commenced prior to this date and diligently pursued thereafter. Commencement of construction consists of driving the pier pilings 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 DEMOLITION, 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: _____

Date _____

PERMIT CONTINUED ON NEXT PAGE

D-R-A-F-T

APN 032-110-28 AND -29
FILE NO. 20062005

Excess Coverage Mitigation Fee⁽¹⁾: Amount \$_____ Paid _____ Receipt No. _____

Shorezone Mitigation Fee⁽²⁾: Amount \$ 2,270 Paid _____ Receipt No. _____

Security Posted⁽³⁾: Amount \$ 10,000 Posted _____ Receipt No. _____ Type _____

Security Administrative Fee⁽⁴⁾: Amount \$ _____ Paid _____ Receipt No. _____

Notes:

(1) Amount to be determined. See Special Condition 3.D, below.

(2) See Special Condition 3.G, below.

(3) See Special Condition 3.H, below.

(4) \$148 if cash security is posted, or \$76 if non-cash security is posted. See attachment "J"

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:

TRPA Executive Director/Designee Date

SPECIAL CONDITIONS

1. This permit specifically authorizes the demolition of an existing single-use pier and the relocation and rebuilding of a new single-use pier that will serve the property located at 3051 Jameson Beach Road, El Dorado County, California. The new pier shall not extend past the pierhead line, 148 feet in length (as measured from MHW 6229.1' Lake Tahoe Datum). The total length of the pier from approach to pierhead, will be 151 feet in length and have a pierhead of thirteen feet in width and 45 feet in length. The pier will also be designed to accommodate a three foot wide catwalk. No boatlifts are authorized as part of the permit. Pilings for the pier will not extend above the pier deck. Exterior lighting consistent with TRPA exterior lighting standards has been approved for the pier. No railings are authorized above the pier deck as a part of this permit. No buoys are authorized as a part of this permit. Due to concerns of illegal discharge to the waters of Lake Tahoe and the spread of invasive species, no water faucets are authorized as part of this permit. Removal of the existing pier will also remove 167 square feet of backshore coverage. Sixty square feet of coverage will be relocated, 30 square feet retired and the remaining 77 square feet will be banked in this project area. All permanent and temporary BMPs shall be installed as part of this project.

2. The Standard Conditions of Approval listed in Attachments Q and S shall apply to this permit.
3. Prior to permit acknowledgement, the following conditions of approval must be satisfied.
 - A. The site plan shall be revised to include:
 - (1) Removal of the water faucet.
 - (2) Removal of the boat lift.
 - (3) Clearly highlight all coverage to be removed and add a note stating that coverage will be removed and the land restored to its natural state. This includes the 70 square feet of non-verified coverage from El Dorado County's Site Assessment. Security return will not occur until restoration is complete. All restoration activities will use species listed on the TRPA-approved plant list as species appropriate for the backshore and SEZ site conditions.
 - (4) An indication of where the proposed turtle lights will be placed on the proposed pier.
 - (5) Details for vegetation protection fencing.
 - (6) A note indicating: "All areas disturbed by construction shall be mulched with a 2 to 3 inch layer of pine needles or wood chips as a dust control measure. This mulch shall be maintained from completion of the initial grading through completion of the project."
 - (7) A notation stating that no buoys are authorized as a part of the pier modification project.
 - (8) The mooring location of the barge during construction, including the location of access and parking or mooring of an amphibious vehicle. The site plans shall include notation that shoreline matting is required for locations of shoreline access for use of an amphibious vehicle. The site plans shall include a notation that all construction materials and equipment shall occur on the barge or amphibious vehicle. No stain of construction materials or equipment is authorized on the shoreline and undisturbed areas.
 - B. The boatlift shall be removed from the proposed pier elevations.
 - C. The pier massing calculations shall be revised as follows:
 - (1) Remove dimensions for 23' boat from "Existing Pier Visual Mass" column and change total to 123.3.
 - (2) Remove boatlift and boat dimensions from "Proposed Pier Visual Mass" column and change total to 191.29

- (3) The calculations for "Square Feet of Mitigation Required" should be changed to $191.29 - 123.3 = 68$. This is the total square feet of scenic mitigation needed.
- D. The affected property has 7,302 square feet of excess land coverage. The permittee shall mitigate a portion or all of the remaining excess land coverage on this property by removing coverage within Hydrologic Transfer Area 5 (Upper Truckee) 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 of 2.00% (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 \$8.50 for projects within Hydrologic Transfer Area 5 (Upper Truckee). 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.

- E. By acceptance of this permit, the permittee agrees that all scenic design and mitigation measures outlined in the scenic analysis and project application are hereby included as conditions of project approval and will be implemented as such. An overall contrast rating score of 21 shall be achieved and maintained for the entire project area.
- F. The permittee shall record a project area deed restriction, to be prepared by TRPA that will permanently treat APNs 032-110-27, 032-110-28 and 032-110-29 as one parcel for the purposes of land coverage. A copy of the recorded deed restriction shall be provided to TRPA prior to acknowledgement of the permit.
- G. The permittee shall submit a shorezone mitigation fee of \$2,270 for the construction of 59 new linear feet of pier (assessed at \$30 per linear foot) and catwalk (assessed at \$500).
- H. The security required under TRPA Code Section 8.8 shall be \$10,000. This security shall be posted in two installments of \$5,000 each at time of acknowledgement. One installment shall be released upon completion of

the project, installation of permanent BMPs and satisfaction of all permit conditions. The second installment shall be retained until all scenic mitigation has been completed. Please see Attachment J, Security Procedures for appropriate methods to post a security and the required Security Administrative Fee.

- I. The final construction drawings shall have notes indicating conformance to the following design standards for color:
 - (1) Color: The color of structures, including fences, shall be compatible with their surroundings. Subdued colors in the earthtone and woodtone ranges shall be used for the primary color of the structure. Hues shall be within a range of natural colors that blend, rather than contrast, with the existing vegetation and earth hues. Earthtone colors are considered to be shades of reddish-brown, brown, tan, ochre, umber, sand and dark green. Colors shall be medium to dark and shall meet the Munsell® color value as set forth in Appendix G, TRPA Approved Earthtone Colors, of the Design Review Guidelines or other color systems that are equivalent to the adopted hues, values and chromas of Appendix G. Structures in the shoreland that were constructed prior to January 1, 1950 may maintain their historic colors when doing exempt maintenance and repair.
- J. The permittee shall have a Tahoe Yellow Cress (TYC) inspection completed by TRPA staff, or a qualified professional botanist approved by TRPA. The inspection shall take place between June 15 and September 30 during the year that construction will commence. If TYC is present, the applicant shall submit a TYC Management Plan to be implemented during and following construction. The plan shall include, but not be limited to, construction methodology, vegetation protection fencing, limitations on vehicle and pedestrian access, construction staging, monitoring during construction, and long-term protection and monitoring methods which may include beach raking limitations, pedestrian access limitations, and avoidance of population disturbance.
- K. Final pier construction drawings shall conform to all the applicable design standards of Section 54.4.B. and 54.6.B, TRPA Code of Ordinances, and all other applicable TRPA design standards.
- L. The permittee shall submit a construction schedule prior to commencement of construction. This schedule shall identify dates for the following: when installation of temporary erosion control structures and caissons will occur; when construction will start; when construction slash and debris will be removed; when installation of all permanent erosion control structures will occur; and when construction will be completed.
- M. The permittee shall submit 3 sets of final construction drawings and site plans to TRPA.

4. The use of wood preservatives on wood in contact with the water is prohibited and extreme care shall be taken to insure that wood preservatives are not introduced into Lake Tahoe. Spray painting and the use of tributyltin are prohibited.
5. Disturbance of the lakebed materials shall be kept to the minimum necessary for project construction.
6. Best practical control technology shall be employed to prevent earthen materials from being resuspended as a result of lake bottom construction and from being transported to adjacent lake waters. Prior to demolition of existing structures and installation of new pilings, temporary BMPs shall be installed at the discretion of TRPA and LRWQCB field inspectors, which shall include turbidity curtains, caissons, or other devices at the discretion of the field inspectors.
7. The discharge of petroleum products, construction waste and litter (including sawdust), or earthen materials to the surface waters of the Lake Tahoe Basin is prohibited. All surplus construction waste materials shall be removed from the project and deposited only at approved points of disposal.
8. No containers of fuel, paint, or other hazardous materials may be stored on the pier.
9. Prior to return of the posted security, the permittee shall submit post-construction photos consistent with the viewpoints submitted to TRPA for review of this project demonstrating any resultant impacts to scenic quality as viewed 300 feet from shore looking landward.
10. The pilings shall be a maximum height of elevation 6232 feet, which is the level of the maximum deck height at MHW 6232 Lake Tahoe Datum.
11. All exterior lighting for the pier shall include shields that direct light to the pier surface only and shall be in conformance with TRPA Code Subsection 30.8.
12. Unless otherwise approved by the TRPA Environmental Compliance Inspector, all pier construction access shall be from the lake, via amphibious barge. Other vehicular access to the shoreline is prohibited for construction of the pier. In addition, storage of materials and equipment within the backshore is prohibited.
13. All necessary precautions shall be taken to prevent the spread of invasive aquatic species. The TRPA Environmental Compliance Inspector has the ability to require inspections or cleaning of equipment to prevent the spread of invasive aquatic species.
14. 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.

15. Any normal construction activities creating noise in excess of the TRPA noise standards shall be considered exempt from said standards provided all such work is conducted between the hours of 8:00 A.M. and 6:30 P.M.
16. The permittee is responsible for insuring that the project, as built, does not exceed the approved land coverage figures shown on the site plan. The approved land coverage figures shall supersede scaled drawings when discrepancies occur.
17. By accepting this permit, the permittee acknowledges that permits for this project may also be required from other regulatory agencies, including, but not limited to, the US Army Corp of Engineers, Lahontan RWQCB, California Department of Fish and Game and California State Lands Commission.
18. This site shall be winterized in accordance with the provisions of Attachment Q by October 15th of each construction season.

END OF SPECIAL CONDITIONS

Attachment C – Issues/Concerns

The primary issues associated with this project are scenic quality, construction methodology and BMPs, vegetation resources and beach access.

- A. Scenic Quality: The project is located in TRPA Shoreline Scenic Unit 3, Jameson Beach, which is currently in attainment with scenic threshold standards. The project was reviewed under Level 3 (b) Option 2 of the Shoreland Scenic Ordinances, TRPA Code Section 30.15.C (3) and TRPA Code Section 30.15H (3). A baseline scenic assessment was completed and the parcel received a contrast rating score of 13 which yields 225 square feet of allowable visible area.

An increase of 68 square feet of visual mass is anticipated with the proposed project. This number was reached by subtracting out the visual mass associated with the existing pier to be demolished, 123.30 square feet, from the visual mass of the proposed pier, 191.29 square feet. The project is located in a scenic unit which is in attainment and mitigation shall be applied at a 1 to 1 ratio. In order to mitigate for the visual mass of the expanded pier, the applicant is choosing to increase the composite contrast rating score by darkening the paint color on all existing structures in the shoreland. The proposed paint color changes will increase the contrast rating score to 21, which yields 680 square feet of allowable visible area. The allowable visual square footage increases 207 feet and will mitigate the additional 68 square feet of visual mass associated with the proposed project.

Though proposed by the applicant, staff cannot approve the proposed low-level boatlift based on its direct conflict with the recommendations for maintaining and improving the scenic quality of areas that were identified in the TRPA Scenic Resources Evaluations and the 1982 Scenic Resource Inventory. More specifically, the scenic resource affected by the proposed boatlift is Scenic Resource 34, USFS Pope Beach Recreation Area. Scenic Resource 34-4 is a panoramic view towards the north of the lake with major peaks anchoring each end of a viewshed comprised mostly of views of the very distant shoreline. In the immediate foreground view towards the north is the Jameson Beach residential area and associated piers and buoys. According to recommendations for this resource, "...structures (e.g. boathouses) should not be permitted to be built out on the piers." TRPA has historically interpreted this recommendation to include all structures which protrude about the pier deck, including boatlifts. In the Jameson Beach area, TRPA has previously required pier expansions without boatlifts in three separate permits: Primm Pier Repair and Expansion, APN 032-120-12, TRPA File 2000452; McCarl Pier Expansion, APN 032-110-11, File #970120; and Landen Pier Expansion, APN 032-110-04, TRPA File 20000823. The decision to deny the boatlift in the Primm Pier Repair and Expansion was appealed, TRPA File 20010505, and the appeal was ultimately denied by the Governing Board on December 12, 2001. In order to be consistent with past TRPA actions, the boatlift proposed on the McCosker project is not recommended for approval. The applicant would like a second catwalk in lieu of the boatlift, but this would bring the proposed pier out of conformance with pier design standards in Chapter 54 of the Code of Ordinances.

- B. Construction Methodology and BMPs: Construction access to the backshore is proposed to occur by amphibious vehicle/barge. Mechanical construction equipment will be operated from the barge, for both demolition of the existing pier and construction of the expanded pier. See permit condition 3.A.8 for more detailed construction access and staging information. All staging and storage of materials will occur on the barge. No staging or storage of construction materials is authorized in the backshore.

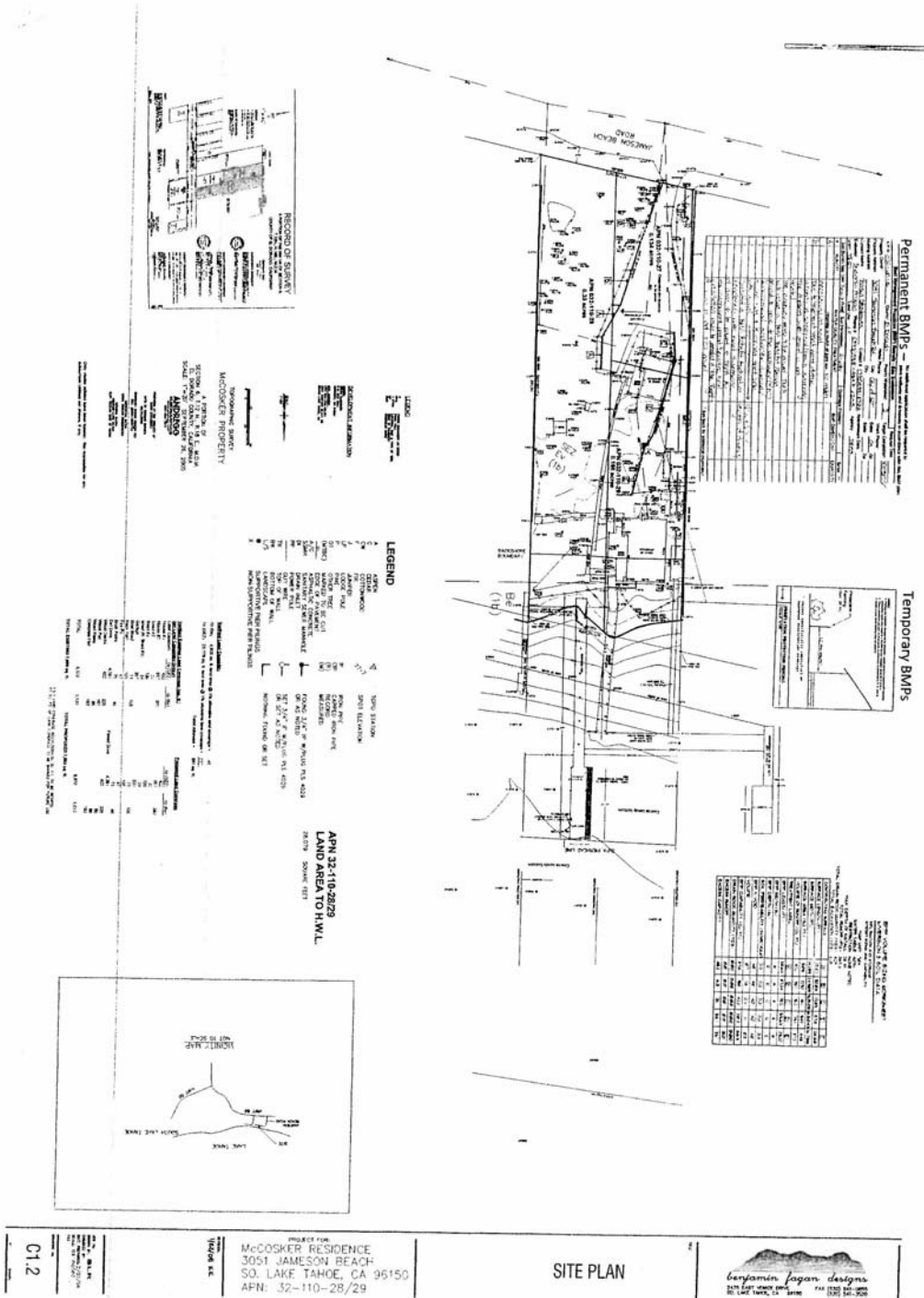
Shorezone temporary BMPs during construction will consist of matting along the shoreline access route for use of an amphibious vehicle. Prior to demolition of existing structures and installation of new pilings, turbidity curtains and/or caissons shall be installed at the discretion of TRPA and LRWQCB field inspectors. If turbidity curtains are deemed necessary, they shall surround the moored location of the barge and shoreline project area during construction. Dripline fencing of existing trees and perimeter vegetative fencing shall be installed around the construction area.

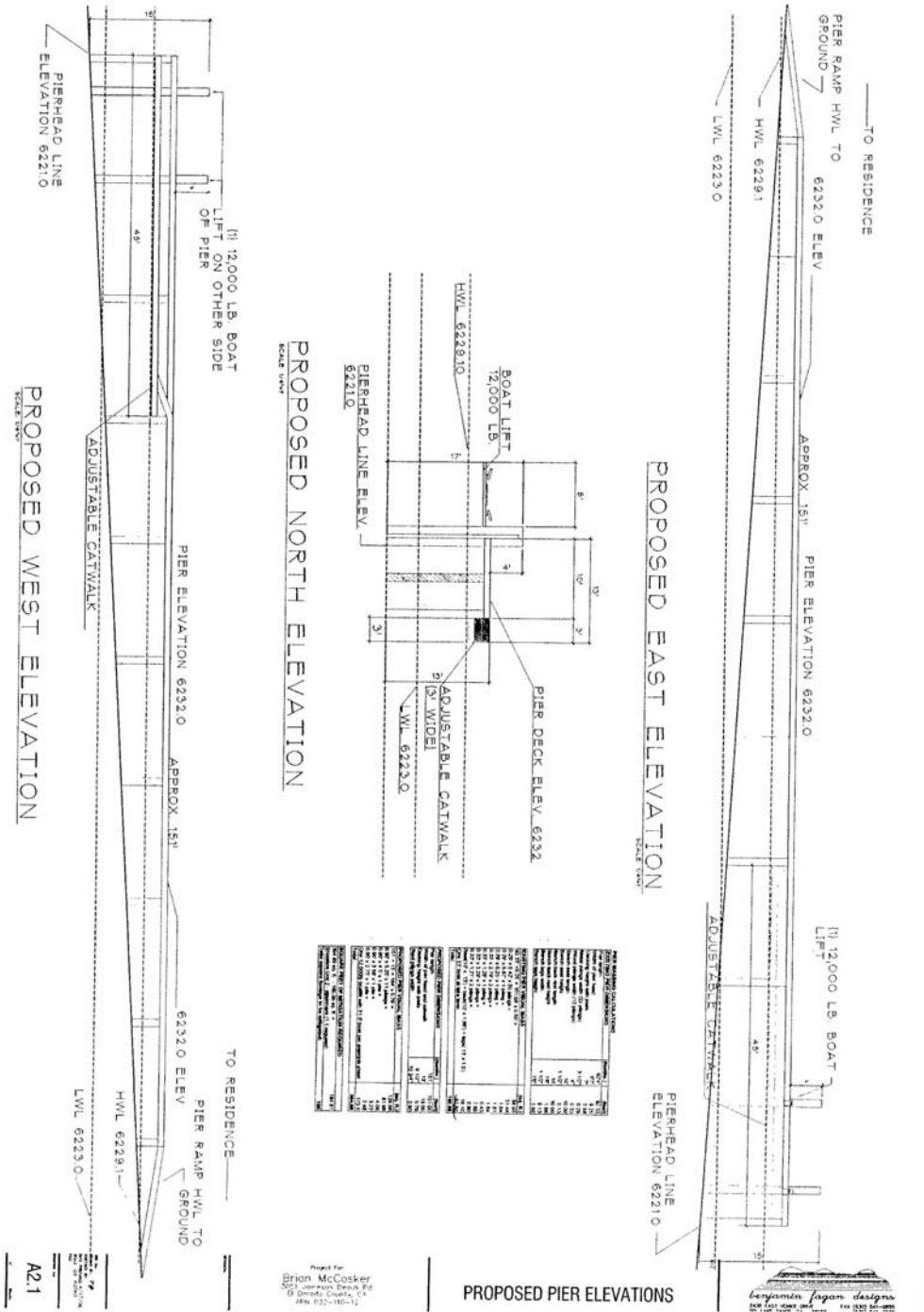
- C. Vegetation Resources: The shoreline in the project area consists of coarse sands and could potentially serve as habitat for Tahoe Yellow Cress. Prior to permit acknowledgement and construction activities, a survey shall be performed by a qualified botanist for the presence of Tahoe Yellow Cress. The inspection shall take place between June 15 and September 30 during the year that construction will commence.
- D. Beach Access: The existing pier currently blocks lateral shore access to the general public as it is connected directly to the single family residence. The relocation of the pier moves it closer to the water and allows for unfettered lateral access to the shoreline.

Attachment D – Regional Plan Compliance Analysis

- A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) and has submitted a scenic analysis in order to assess the potential environmental impacts of the project. No significant environmental impacts were identified and staff has concluded that the project, as conditioned, will not have a significant effect on the environment. A copy of the completed IEC and the scenic analysis will be made available at the Governing Board hearing and are available at the TRPA offices.
- B. Plan Area Statement: The project is located within the Plan Area Statement Number 127, Camp Richardson. The Land Use Classification is Recreation and the Management Strategy is Mitigation. Single-family dwellings are considered a special use within this Plan Area Statement. Piers are also a special use in the PAS. Agency Staff has reviewed the Plan Area Statement and has determined that the project is consistent with the applicable planning statement, planning considerations and special policies.
- C. Land Coverage: The proposed project area is entirely comprised of Class 1b (SEZ). The project involves relocation of coverage in the backshore. Demolition of the existing pier will result in the removal of 167 square feet of coverage. Sixty square feet of that coverage will be relocated in the project area for the new pier approach. Relocation of coverage in the backshore must be at a ratio of 1 to 1.5, resulting in the retirement of 30 square feet of coverage. The remaining 77 square feet of coverage will be banked on the parcel.
- D. Shorezone Tolerance District: The subject parcel is located within Shorezone Tolerance District 1. The standards in Shorezone Tolerance District 1 state that access to the shoreline shall be restricted to planned footpaths which minimize the impact to the backshore. Vegetation shall not be manipulated or disturbed except when permitted. Coverage in the backshore shall be regulated with the regulations for stream environment zones. This project, as conditioned, complies with the Shorezone Tolerance District standards.
- E. Location Standards for Piers: The setback for existing piers is 5 feet from the TRPA setback lines which are calculated by measuring the applicable distance inward from each property line along the high water line and then projected lakeward and perpendicular to the tangent of the shoreline. The Code allows TRPA to adjust the projection lines due to unique circumstances. The undulations of the high water line on this property are considered a unique circumstance and as such the setback lines must be adjusted. The setback lines were adjusted by looking at the path of the highwater line throughout the Jameson Beach neighborhood as opposed to just the shoreline on the subject parcel. When the highwater line is smoothed, the pier conforms to the TRPA setbacks.

Attachment "E"





TAHOE REGIONAL PLANNING AGENCY

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www.trpa.org

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Stateline, Nevada 89449-5310

Phone: (775) 588-4547
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Email: trpa@trpa.org

MEMORANDUM

To: TRPA Governing Board

From: TRPA Staff

Date: June 18, 2008

Subject: Lake Tahoe Cruises, 900 Ski Run Boulevard, Ski Run Marina (home port), City of South Lake Tahoe, California, Assessor's Parcel Number 027-690-006, TRPA File Number 20051495

Requested Action: Governing Board action on the proposed project and a finding of no significant environmental effect.

Staff Recommendation: Staff recommends that the Governing Board make the required findings and approve the proposed project.

Required Motion(s): In order to approve the proposed project, the Board 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).

In order for the motions to pass, an affirmative 5-9 vote (5 California, 9 total) of the Board is required.

Project Description: Lake Tahoe Cruises (LTC) is requesting a plan revision to TRPA Permit File No. 200504, to authorize additional docking locations for the Tahoe Queen, Tahoe Paradise, and Tahoe Princess for a maximum of 6 private charter excursions annually. Vikingsholm pier will be authorized as a destination only location for specifically the Tahoe Paradise and Tahoe Princess. All three vessels will be authorized to use the Zephyr Cove Resort/Marina pier as conditioned with this permit. Authorized activities at Zephyr Cove Resort/Marina will include boarding of passengers, unloading of passengers, and occasional fueling of vessels. The fueling of vessels at Zephyr Cove Resort/Marina will be authorized only when operational constraints preclude these services at Ski Run Marina. Sewage pump-out services are not being authorized for these three vessels at Zephyr Cove Resort/Marina. The home port for the three vessels would continue to be Ski Run Marina. Use of the charter vessels at any location other than those specifically included as part of the original permit (TRPA File Number 200504) and this permit is prohibited.

The proposed project authorizes parking by individuals for these private excursions at Ski Run Marina and Zephyr Cove Resort/Marina only during the months of October to April. Parking of private vehicles at Ski Run Marina and Zephyr Cove Resort/Marina for these excursions will be prohibited May through September. All excursion participants must arrive and depart via transit.

6/12/08
JR/ps

Governing Board Agenda Item X.C.

LTC is also requesting the elimination of requirements to submit quarterly reports of ridership of vessels associated with the previous permit (TRPA File Number 200504), and elimination of requirements to collect water quality samples at Ski Run Marina. The elimination of water quality monitoring (project permit Condition 4.I.) is pursuant to documentation from the Lahontan Regional Water Quality Control Board (LRWQCB) to eliminate this requirement at Ski Run Marina.

Background: The project is a plan revision to TRPA Permit File Number 200504, which authorized private charters for group rentals to various locations around Lake Tahoe for four vessels (Tahoe Queen, Tahoe Princess, Tahoe Paradise and the Meteor). Since that time, the Meteor has been sold and is not part of the requested project.

Zephyr Cove Marina/Resort is located on U.S. Forest Service land. Zephyr Cove Marina/Resort is managed and operated by Aramark, Inc., pursuant to U.S. Forest Service Marina/Resort Special Use Permit, Permit Number FSM2710. Aramark is a Delaware Corporation, which manages the Zephyr Cove Resort/Marina, including the lodge, parking areas, cabins, and the public beach and pier. Lake Tahoe Cruises (LTC) is a wholly owned subsidiary of Aramark. For purposes of this permit, Aramark and LTC are recognized as one entity and hereinafter referred to as the permittee/applicant. The Zephyr Cove Property Owners Association (ZCPOA) represents the properties adjacent to the southern property boundary of the resort/marina permit area.

Following the required noticing for this project of adjacent property owners, approximately 26 letters were received expressing opposition to the project. The opposition was primarily associated with Zephyr Cove Resort/Marina regarding parking, noise, navigation and safety hazards within the marina, increased fueling and sewage pump-out services, and traffic congestion and pedestrian access (See Attachment C). The public comment letters raise issues related to a lack of enforcement and management of parking and noise impacts (during peak summer season), and an unwillingness of the resort/marina to provide a more courteous relationship with the surrounding residential community. The concerns with parking and noise are primarily focused on existing and previous uses at the resort, but also represent that the proposed project will exacerbate the existing situation.

In an effort to address these concerns, the applicant has met with TRPA and U.S. Forest Service staff to identify methods to resolve these issues. The permittee has since worked with Nevada law enforcement and transportation agencies to identify solutions for better management of parking. Additional noise studies were also conducted resulting in the proposed noise mitigation included in the proposed project.

Issues/Concerns:

- Transportation and Parking
- Noise
- Water quality
- Public Safety and Navigation

See Attachment C for a discussion of these issues and concerns.

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 50 of the TRPA Code of Ordinances (see attachments A and D for details).

If you have any questions, please contact Jason Ramos at (775) 588-4547 or jramos@trpa.org.

Attachments:

- Required Findings/Rationale (Attachment A)
- Draft Permit (Attachment B)
- Issues/Concerns Discussion (Attachment C)
- Regional Plan Compliance Analysis (Attachment D)

Attachment A – Required Findings

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

Chapter 6 – Required Findings

1. 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.

Based on the analysis contained in the IEC, Project Review Conformance Checklist and Article V(g) Findings, all supporting studies and documentation for this project, and the previous environmental analysis for TRPA File No. 200504, the project will not adversely affect implementation of the Regional Plan or cause the environmental threshold carrying capacities to be exceeded.

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

Refer to Finding 1 above.

3. 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 has been reviewed and conditioned for conformance with all applicable air and water quality standards. The project has been reviewed by the Interagency Shorezone Coordination Group for conformance with applicable federal, state, and local air and water quality standards.

Chapter 18 – Required Special Use Findings: The Zephyr Cove Plan Area Statement (PAS) authorizes waterborne transit and tour boat operations as an allowable use. The Emerald Bay PAS authorizes waterborne transit and tour boat operations as a special use. Therefore, the following special use findings are specifically required for the proposed project within the Emerald Bay PAS.

1. 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 PASs for Zephyr Cove and Emerald Bay authorize waterborne transit and tour boat operations as permissible uses. The Zephyr Cove PAS is identified as a preferred area for tour boat operations. Both the Zephyr Cove and Vikingsholm piers currently support existing commercial watercraft uses, and contain existing support facilities to accommodate the proposed charter vessel uses. The project proposes four to six charters per year, which is expected to be of a scale, density, and intensity to be appropriate for the parcel and surrounding area as conditioned with the permit.

2. 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 incorporates mitigation measures and special conditions with regard to parking, traffic, noise, water quality, and marina and shorezone public safety. Based on the analysis of the IEC, staff summary, and supporting environmental studies, potential impacts associated with the project as conditioned are expected to be less than significant to the surrounding project area.

3. 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.

Both the Zephyr Cove and Vikingsholm piers currently support existing, similar commercial watercraft uses, and contain existing support facilities to accommodate the proposed charter vessel uses. The project as conditioned is consistent with the Zephyr Cove and Emerald Bay PASs, and is not expected to change the character of the surrounding neighborhood.

Chapter 50 Findings – Review of Projects in the Shorezone and Lakezone

1. The project will not adversely impact littoral processes.

No new construction in Lake Tahoe is required for the proposed charter vessel uses. Therefore, the proposed uses are not expected to impact littoral processes in Lake Tahoe.

2. The project will not adversely impact fish spawning.

Zephyr Cove Marina and Vikingsholm pier are located in TRPA mapped marginal fish habitat. The proposed project does not involve any construction activities in Lake Tahoe and no physical habitat changes will occur as a result of the project.

3. The project will not adversely impact Backshore stability.

No new construction or adverse impacts within the backshores areas of Emerald Bay or Zephyr Cove are proposed or expected with the project. In addition, all private charter vessels shall operate at speeds of 5 MPH or less within 600 feet of the shoreline of Lake Tahoe to minimize wakes in accordance with Subsection 54.16.A of the TRPA Code. All charter vessels shall dock on established piers, and are not allowed to dock or moor on the beach or backshore area.

4. The project will not adversely impact on-shore wildlife habitat, including wildfowl nesting areas:

The project does not involve any construction activities in Lake Tahoe or adjacent shorezone areas, and no physical habitat changes are expected as a

result of the project. The project permit includes special conditions for noise reduction and other measures to avoid impacts to wildlife within Emerald Bay.

5. There are sufficient accessory facilities to accommodate the project:

Zephyr Cove marina has existing support facilities for fueling and restroom facilities. Sewage pump-out services are not proposed at Zephyr Cove Resort/Marina. Zephyr Cove Marina, as well as the charter vessels, have restrooms available to customers who will be served by the proposed uses. The Zephyr Cove Marina has a 320-foot pier for the loading and unloading of passengers for the charter vessels. Vikingsholm has a 130-foot pier for the loading and unloading of passengers. The Vikingsholm site has limited capacity for visitors due to the lack of sewer service. The existing system must be pumped out periodically and vehicles cannot access the property when snow conditions are present. For this reason, visitors arriving at Vikingsholm will be informed of the limited sewer capacity and will be advised to use the restrooms on the vessels that are providing transport.

6. 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 proposed charter vessel operations are compatible with other boating activities in the lakezone of Lake Tahoe because the lakezone is large enough to accommodate the proposed uses. Both the Zephyr Cove and Vikingsholm piers currently support existing, similar commercial watercraft uses, which are compatible with the proposed charter vessel uses. The Zephyr Cove PAS is a Recreation PAS, and the project is compatible with other existing marina recreation uses.

7. The uses proposed in the foreshore or near shore is water dependent.

The proposed charter vessel uses are by nature water dependent.

8. Measures will be taken to prevent spills or discharges of hazardous materials.

Under the prior plan revision for TRPA file number 20030330, the applicant was required to submit a Zephyr Cove Marina Fuel and Sewage Spill Prevention Control and Countermeasure Plan for TRPA review and approval, which shall serve as the required plan for the proposed charter uses of this project. Sewage pump-out services are not requested at Zephyr Cove Resort/Marina.

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

No ground disturbing construction activities are proposed or needed for this project.

10. 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.

Four to six charters are proposed annually with the project. All charters will have scheduled arrival and departure times to ensure that proper docking space is available. The proposed vessels are currently licensed by the United States Coast Guard for navigational safety. Charter vessel captains are U.S. Coast Guard licensed to assure the highest level of safety for passengers, crew, and other watercraft. All licensed HCE captains are trained to use designated channels for their pier approach at each docking location. These channels are established to avoid conflict with other recreational activities. Channel information is kept on each vessel in the Captain's Manual, which contains both a map and picture from the water of each chartered pier approach. All vessels are required to adhere to the 5 mile per hour "no wake zone" as they approach each pier. The swim area and mooring of other rental watercraft are located at other designated locations of the marina, which are separated from the docking locations of the proposed charter vessels. As conditioned by the draft permit, the permittee is required to receive approvals from all other applicable agencies having jurisdiction over the project.

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

This project has been discussed at the Interagency Shorezone Coordination Group meetings and TRPA planners have been in contact with the City of South Lake Tahoe Planning Department, Nevada Division of State Lands, and the California State Lands Commission, who may require independent review and approval of the applicant's activities associated with this permit.

Attachment B – Draft Permit

PROJECT DESCRIPTION: Waterborne Transit/Tour Boat APN: 027-690-006

PERMITTEES: Lake Tahoe Cruises FILE No. 20051495

COUNTY/LOCATION: Home port: Ski Run Marina/City of South Lake Tahoe

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on June 26, 2008, subject to the standard conditions of approval attached hereto (Attachments S and Q) and the special conditions found in this permit.

This permit shall expire on June 26, 2011, without further notice unless the activity has commenced prior to this date and is diligently pursued thereafter. Commencement of the activity consists of the charter vessels docking at the permitted destination. 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 TOUR BOAT/WATERBORNE TRANSIT/CHARTER ACTIVITY SHALL COMMENCE UNTIL ALL THE CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT. IN ADDITION, NO WATERBORNE TRANSIT/CHARTER ACTIVITY SHALL COMMENCE UNTIL 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.

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: _____ Date _____

PERMIT CONTINUED ON NEXT PAGE

APN: 027-051-09 & 005-010-003
FILE NO. 20051495

Air Quality Mitigation Fee (1): Amount _____ Paid _____ Receipt No. _____

Security Posted (2): Amount \$2,000.00 Posted _____ Type _____ Receipt No. _____

Security Administrative Fee (3): Amount \$ _____ *Paid _____ Receipt No. _____

Notes:

- (1) See Special Condition 4.j, below.
- (2) See special condition 4.a., below.
- (3) \$148 if a cash security is posted, or \$76 if a non-cash security is posted.

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 is a plan revision to TRPA File No. 200504, to authorize additional docking locations for the Tahoe Queen, Tahoe Paradise, and Tahoe Princess for a maximum of 6 private charter excursions annually. Vikingsholm pier is authorized as a destination only location for specifically the Tahoe Paradise and Tahoe Princess vessels. All three vessels are authorized to use the Zephyr Cove Resort/Marina pier as conditioned with this permit. Authorized activities at Zephyr Cove Resort/Marina include boarding of passengers, unloading of passengers, and occasional fueling of vessels. The fueling of vessels at Zephyr Cove Resort/Marina is authorized when operational constraints preclude these services at Ski Run Marina. The home port for the three vessels would continue to be Ski Run Marina.

This permit authorizes parking by individuals participating in the subject excursions at Ski Run Marina and Zephyr Cove Resort/Marina during the months of October to April. Parking of private vehicles at Ski Run Marina and Zephyr Cove Resort/Marina associated with the proposed project is prohibited May through September. All charter excursion participants shall arrive and depart via shuttle service or public transit.

This plan revision also authorizes the elimination of requirements to submit quarterly reports of ridership of vessels at Ski Run Marina, associated with the previous permit (TRPA File Number 200504), and elimination of requirements to collect water quality samples at Ski Run Marina as authorized with Condition 4.H. of this permit. Use of the charter vessels at any location other than those specifically included as part of the original approval (TRPA File Number 200504) and this permit is prohibited.

2. The term "charter excursions" shall refer to private group rentals whereby the charter vessels are rented for an excursion on Lake Tahoe to and from the approved destinations, which begin and end on the same calendar day.
3. This permit does not authorize or recognize any private agreements between the permittees and other parties, nor, does this permit authorize any proposed changes in land use patterns and/or land management, and the relocation of facilities and/or activities proposed in such agreements. Any such changes for which TRPA review and approval is required shall be applied for under a separate application. Additionally, any potential changes shall be consistent with the Conservation Strategy for Tahoe Yellow Cress (*Rorippa subumbellata*) dated August 2002.
4. Prior to acknowledgement, the permittee shall:
 - a. Submit a security to TRPA in the amount of \$2,000. Please see Attachment J, Security Procedures. The security shall be eligible to be returned after two years of successful operation by Lake Tahoe Cruises within the conditions of this permit and the original approval, TRPA File Number 200504.
 - b. Obtain the release of all securities held at TRPA for previous permits issued to Hornblower or Lake Tahoe Cruises.
 - c. Submit a detailed plan for how visitors will be informed of the sensitive environment at Emerald Bay and how impacts to this area will be avoided, specifically with regard to noise. The plan shall include, but is not limited to, signage that may be placed on the vessel, speaker announcements that would inform the passengers, and information that might be added to printed tickets or brochures.
 - d. Submit written authorization that property owners of Zephyr Cove Resort and Ski Run Marina agree to the proposal for parking of individual vehicles during the months of October through April at these locations.
 - e. During May through September at Zephyr Cove Resort and Ski Run Marina, the authorized charter excursions shall only serve groups in which every passenger is brought to and from the permitted destination using transit (public or private) or non-vehicular modes (i.e., bicycle, pedestrian, etc.). Provide a plan demonstrating how this requirement will be enforced and complied with. It is the responsibility of the permittee to enforce this restriction.
 - f. Provide documentation demonstrating that fencing of Tahoe Yellow Cress populations at Zephyr Cove Resort has been maintained and the Tahoe Yellow Cress Management Strategy is being followed at this location.
 - g. Provide an update for TRPA staff summarizing the measures that have been taken to prevent fueling and sewage spills at Ski Run Marina. Please include ongoing trainings or drills that are conducted on a regular basis.

- h. Provide documentation that demonstrates there is no longer a requirement from the Lahontan Regional Water Quality Control Board (LRWQCB) for continued water quality monitoring at Ski Run Marina, as required with TRPA Permit File Number 200504.
 - i. Provide documentation that demonstrates a current and valid signed contract exists with California State Parks allowing docking of the proposed charter vessels at Vikingsholm. Absence of documentary proof shall not prevent acknowledgement or preclude docking at other approved locations.
 - j. During the period of proposed private vehicle parking at Zephyr Cove Resort and Ski Run Marina (October through April), in a worst case scenario, the project has potential to generate 202 vehicle trips. The permittee shall pay an air quality mitigation fee of \$6,060.00. This figure is pursuant to Section 93.3.D (5) of the Code, at \$30.00 per vehicle trip.
5. Authorization to allow individuals participating in the subject charter excursions to park at Ski Run Marina and Zephyr Cove Marina is for the off season months of October to April only.
6. Please note that the temporary parking lot approved at Ski Run Marina was required to be removed in the fall of 2007. These spaces shall be removed and shall not be included in the calculation of available spaces.
7. Notice shall be provided to TRPA 10 days in advance of all scheduled charter excursions authorized with this permit, which shall include the following information. Identify the charter vessel of proposed use, times of departure and arrival, destinations of travel, type of private charter event including any proposed live or amplified music, total number of passengers, how passengers arrived at and departed from Zephyr Cove Resort, and the date each charter occurred.
8. Quarterly reports for the proposed charter vessels are required during the first year of operation of the proposed charter vessels at Zephyr Cove Resort/Marina. The reports shall include all the information required in Condition 7, including the number of charters that took place each month. All other quarterly reports of passengers on Lake Tahoe Cruises vessels as required with TRPA File No. 200504 are no longer required. In the event that circumstances change, TRPA reserves the right to request quarterly reports in the future for all previously permitted Lake Tahoe Cruises vessels.
9. This permit is valid for three charter vessels including the Tahoe Queen, the Princess, and the Paradise. No other charter vessels are permitted at the authorized docking locations. Visitor parking discussed in this permit is associated with these specific vessels.
10. The only vessels authorized to dock at Vikingsholm are the Princess and the Paradise.
11. The following provisions will be followed when docking at Vikingsholm:
 - Charters are limited to those time periods between Labor Day and October 15, and between May 1 and the Friday before Memorial Day.

- The duration of docking for both vessels shall not exceed 30 minutes.
 - Vessels shall not idle for a period of more than 6 minutes.
 - No more than 6 charters per year is authorized.
 - Events will not be catered or involve food consumption.
 - Sanitizing hand wipes shall be provided to passengers as requested by the El Dorado County Health Department.
12. Annual reports of charter visitations to Vikingsholm shall be submitted to TRPA on May 1st of each year. The reports shall include the number of charters that took place, number of passengers on each charter, and the date each charter occurred. Upon release of the security, this requirement can be eliminated.
13. By acceptance of this permit, the permittee agrees to ensure that both the sewage hoses and fueling pumps at Ski Run Marina and Zephyr Cove Marina shall be outside of the lake at all times. The permittee shall utilize best available technology (BAT) to ensure that the sewage hoses and/or sewage, and the fueling pumps and/or fuel shall not enter Lake Tahoe. The fueling shall be undertaken in accordance with a TRPA approved Spill Prevention Control and Countermeasure Plan. The Ski Run Marina and Zephyr Cove Marina and the chartered vessels shall carry sufficient absorbent powder (or pads) to soak-up an oil/fuel spill of up to 400 gallons.
14. The charter vessel fuel hose endings shall be manually operated. Fuel pumps shall be switched off when not actually filling the charter vessels.
15. The Lake Tahoe Cruises charter vessels shall be converted to bio-diesel in the event that fueling locations for bio-diesel become feasible.
16. The number of passengers on the vessel shall not exceed the capacity assigned to the vessel by other regulatory agencies, including the U.S. Coast Guard. The term "passenger" shall include all human beings on the vessel except those employees necessary to operate and service the vessels. In no event shall the number of human beings on the charter vessels exceed the capacities authorized by the Coast Guard.
17. In accepting this permit, the permittee acknowledges that permits for this project may also be required from other regulatory agencies, including, but not limited to, the City of South Lake Tahoe, California State Lands Commission, California State Parks, El Dorado County, Douglas County, the USDA Forest Service, the Nevada Division of State Lands, the U.S. Army Corps of Engineers, and the Lahontan Regional Water Quality Control Board.
18. All prior permit conditions in TRPA permit number 200504 still apply, unless specifically modified by this permit.
19. Mass transit vehicles and shuttles shall not park at the permitted destinations, and shall only remain at the permitted destination for as long as necessary for charter passengers to load and unload from the vehicles.
20. The charter vessels shall remain at least 600 feet from the shoreline of Lake Tahoe, except when docking at areas specifically authorized by this permit. No vessels shall

exceed the 5 mile per hour speed in the no wake zone in accordance with Section 54.16.A of TRPA Code.

21. The charter vessels shall only dock at the permitted destinations if there is a minimum depth of 5.5 feet from the lake surface to the lakebed at the authorized docking locations. It shall be the responsibility of the applicant to check lake levels and maintain lake elevation records to ensure compliance with this provision.
22. No new dredging is authorized at any of the approved locations.
23. The permittee shall take all necessary measures to prevent passengers from trespassing and causing environmental damage while loading and unloading from vessels at the permitted destinations.
24. Unless necessary for emergencies or repairs, the charter vessels shall not idle for more than 60 consecutive minutes. Idling shall be limited to the minimum time necessary for efficient operation of the vessels.
25. When cleaning the vessels, the permittee shall use sponges or mops to wash the deck, and shall use only biodegradable and phosphate free detergents, and shall not allow overflow of wastewater in the lake. Scraping or scouring of any surface in contact with the waters of the lake shall only be done in dry dock or at a TRPA approved site.
26. No amplified or live music shall be played while operating on the waters of Emerald Bay at any time.
27. Live or amplified music shall be contained inside the subject charter vessels. Windows on the charter vessels shall remain closed when live music is being played, and when the charter vessels are within 600 feet of the shoreline.

At Zephyr Cove Resort/Marina, no live or amplified music shall be played as follows:
 - a. While the subject charter vessels are docked at the pier.
 - b. Within 1,000 feet of the shoreline of Zephyr Cove.
 - c. After 10:00 PM.
28. The on-board public address system shall be operated at the minimum level necessary and shall be directed toward the center of the vessel at all times of operation.
29. The blasting of horns with the proposed charter vessels shall be the minimum necessary for required public safety and navigation purposes.
30. The charter vessels shall not operate on the waters of Emerald Bay between ½ hour after sunset and ½ hour before sunrise from March 15 through October 15.
31. The charter vessels shall be fueled at Zephyr Cove Marina in accordance with the TRPA approved Spill Prevention Control and Countermeasure Plan. Each charter vessel shall carry sufficient absorbent powder (or pads) to soak up an oil/fuel spill of up to 400 gallons.

32. The permittee shall discourage passengers on the charter vessels from shouting or making loud noises when the charter vessels are operated within 600 feet of the shore.
33. Use of whistles and/or horns shall be limited to those necessary for public safety, navigation, and emergency purposes.
34. Except as necessary for public safety, navigation, and emergency, no announcements shall be made over exterior speakers unless the charter vessels are further than 600 feet from shore.

END OF SPECIAL CONDITIONS

Attachment C – Issues and Concerns

The issues associated with the project are primarily concerned with Zephyr Cove Marina/Resort. These issues include traffic and parking congestion, noise, potential water quality impacts, and public safety with regard to marina navigation. These issues were primarily raised by the surrounding residential community. All conditions of the previously issued permit (TRPA File Number 200504) shall be incorporated by reference.

Traffic and Parking: Lake Tahoe Cruises has requested approval to allow individuals to park at Ski Run Marina and at Zephyr Cove Resort during the off-season months from October to April. Based on the reported passenger counts for peak season over the previous five years and a traffic and parking analysis prepared by LSC Transportation Consultants, it appears this request could be granted. Since public comment letters were primarily concerned with related impacts to Zephyr Cove, this analysis focuses on project impacts to Zephyr Cove.

The applicant has met with TRPA and U.S. Forest Service staff to identify methods to address the public concerns. The applicant has since contacted the Nevada Highway Patrol (NHP) and Nevada Department of Transportation (NDOT) to identify solutions for better management of parking. According to the applicant, the NHP does not currently have a sub-station in the Tahoe Basin, and is limited to one patrol officer per day in the Basin. Therefore, the NHP is constrained with limited resources to assist with illegal parking issues associated with Zephyr Cove Resort. Contingent upon State budget constraints, there is potential for a NHP Tahoe sub-station in the near future to assist with citations for illegal parking. The consideration of increased “No Parking” signage was discussed with both NHP and NDOT, which was not encouraged by these departments due to potential conflicts with emergency vehicle obstructions, snow removal operations, scenic impacts, and additional permitting and maintenance concerns. However, according to the applicant, the District Traffic Engineer and the Douglas County Sheriff’s office are currently having discussions regarding illegal parking in the general area, and that future parking enforcement efforts may be increased in the near future.

The existing parking capacity for Ski Run Marina and Zephyr Cove Marina is identified in a traffic and parking analysis prepared by LSC Transportation Consultants (hereinafter, the analysis). A vehicle occupancy rate of 3.47 persons per vehicle was determined, as a visitor home-based recreational rate, as reported in the Regional Transportation-Air Quality Plan for the Lake Tahoe Region (TRPA, 1992). The analysis identifies a maximum number of passengers that can be accommodated on the Tahoe Princess or Tahoe Paradise as 120 people, and 350 people on the Tahoe Queen. Dividing the peak charter passenger load by vehicle occupancy, provides a means for generating peak potential parking demand. In a worst case scenario, if all passengers for the Tahoe Queen at full capacity drove their personal vehicles, this would generate a parking demand of approximately 101 parking spaces ($350/3.47=101$). However, based on previous records of passenger counts for these vessels out of Ski Run Marina, private charter excursions typically generate 40 to 60 passengers for a given charter excursion. The maximum number of employees per cruise is five people. The analysis identifies that existing parking for the Zephyr Cove Resort consists of a total of 390 parking spaces throughout the project area. LTC has observed that parking demand at Zephyr Cove on an off-season peak day (weekend) at approximately 12:00 P.M., to be approximately 132 vehicles, which leaves approximately 258 available parking spaces. As with existing conditions for all currently permitted charter vessels, it is expected that the majority of passengers will continue to utilize shuttle services to Zephyr Cove during October through April. Therefore,

adequate parking is expected to be available on-site at Zephyr Cove Resort during the proposed off-season parking period.

Since parking of private vehicles is proposed at Zephyr Cove Resort and Ski Run Marina, the worst case scenario parking requirement of 101 parking spaces can be applied to Zephyr Cove Resort and Ski Run Marina. This can be translated into a total of 202 vehicle trips for the project, which triggers an air quality mitigation fee of \$6,060.00 pursuant to Section 93.3.D (5) of the Code (\$30.00 per vehicle trip).

The analysis identifies a maximum number of passengers that can be accommodated on the Tahoe Princess or Tahoe Paradise as 120 people, and 350 people on the Tahoe Queen. In a worst case scenario, using an estimate of 40 passengers per shuttle bus, a total of 18 buses (drop off and pick up) would be needed for the Queen, and a total of 6 buses (drop off and pick up) would be needed for the Princess or Paradise on a given charter excursion. However, based on previous records of passenger counts for these vessels out of Ski Run Marina, private charter excursions typically generate 40 to 60 passengers for a given charter excursion. As with existing conditions for all currently permitted charter vessels, it is expected that the majority of passengers will continue to utilize shuttle services to Zephyr Cove during October through April.

Based on consultation with LSC Transportation Consultants, Inc., informal observations indicate that during peak summer traffic conditions, LOS is expected to operate at an acceptable LOS. Due to the presence of a northbound turn lane and a signalized intersection, LOS and driver sight distance at the intersection of US Highway 50 appear to be adequate. Therefore, the project is not expected to worsen the LOS of the Highway 50 intersection during the peak summer season (May through September).

Based on the above analysis and supporting documentation in the record, parking and traffic related impacts for the project are expected to be less than significant.

Noise Impacts: As a means of quantifying the noise levels associated with additional charter operations, J.C. Brennan & Associates, Inc., conducted noise level measurements of both the M.S. Dixie II and Tahoe Queen operations. It is noted that these two vessels are the largest charter vessels on Lake Tahoe, to serve as a worst case scenario for noise potential. The Community Noise Equivalent Level (CNEL) for Plan Area Statement 066, Zephyr Cove, is 55 CNEL. The CNEL associated with boarding/departure and arrival/unloading operations for the M.S. Dixie II was 47.2 dB at a distance of 60 feet from the boat. The CNEL associated with boarding/departure and arrival/unloading operations for the Tahoe Queen was 60.2 dB at a distance of 65 feet from the boat. However, the overall CNEL would drop to approximately 55 dB, if the long horn blast is eliminated. The results of the noise level measurements indicated that CNEL standards are not exceeded at the PAS boundary or the property line for one operation, based upon the overall measured noise levels for either the Tahoe Queen or the M.S. Dixie II. However, it is recommended that use of horns should be kept to a minimum (Brennan, 2007). A 2003 noise analysis was performed by Bollard and Brennan, Inc., at Zephyr Cove Resort, which found that existing noise levels with the resort/marina at that time were found to comply with the CNEL 55 noise standard for Plan Area Statement 066. A supplemental noise analysis was performed on October 16, 2007, to analyze noise levels for the event stage associated with the special events area of the resort, in response to noise complaints from adjacent residential property owners. The supplemental analysis further identified compliance with the CNEL 55 noise standard and prescribed mitigation to further reduce noise for the event stage.

The permittee shall also abide by all conditions in the original permit. These conditions limit vessel idle times, the volume of the public address system, passenger noise levels, the volume of music (live or recorded), the use of whistles and horns, and announcements within 300 feet of the shore.

Water Quality: The project permit has been conditioned for conformance with a Zephyr Cove Marina Fuel Spill Prevention Control and Countermeasure Plan. Water quality monitoring was completed at Ski Run Marina in order to resolve alleged water quality violations associated with sewage pump-out procedures. In 2001, it was discovered through routine sampling that high counts of fecal coliform were present in the water at Ski Run Marina. This was later attributed to sewage pump-out practices, which have since been corrected. Upon documentation that this matter has been resolved to the satisfaction of Lahontan RWQCB, this requirement shall be lifted, as conditioned with the permit.

Public Safety and Navigation: In relation to the proposed project, some of the submitted public comment letters expressed an elevated concern with regard to public safety and navigation hazards associated with increased charter boat activity at Zephyr Cove Marina. Public concerns were raised with regard to potential over-crowding of commercial watercraft uses (i.e., watercraft rentals, commercial fishing and parasailing type uses, tour boat and private charter uses, etc.) and public safety of various shorezone uses (i.e., swimming, rafting, kayaking, use of private motorized water craft, etc.).

Aramark has responded to these concerns by clarifying that only 4 to 6 charters annually are proposed with the project. All charters will have scheduled arrival and departure times to ensure that proper docking space is available. The proposed vessels are currently licensed by the United States Coast Guard for navigational safety. Charter vessel captains are U.S. Coast Guard licensed to assure the highest level of safety for passengers, crew, and other watercraft. All licensed HCE captains are trained to use designated channels for their pier approach at each docking location. These channels are established to avoid conflict with other recreational activities. Channel information is kept on each vessel in the Captain's Manual, which contains both a map and picture from the water of each chartered pier approach. All vessels are required to adhere to the 5 mile per hour "no wake zone" as they approach each pier. The swim area and mooring of other rental watercraft are located at other designated locations of the resort/marina, which are separated from the docking locations of the proposed charter vessels. Further, as conditioned with the draft permit, the permittee is required to receive approvals from all other applicable agencies having jurisdiction over the project.

According to the applicant (Aramark/LTC), there have been no reported accidents between swimmers, kayakers, and boats at Zephyr Cove Resort/Marina. To address the concerns of adjacent home owners about swimmer safety, the applicant responded by modifying the swim line to address their concerns.

It is noted that with the anticipated adoption of the amended shorezone ordinances, the maximum speed for motorized watercraft in Emerald Bay will be 7 miles per hour, for among other reasons, to enhance the safety of all recreation users.

Attachment D – Regional Plan Compliance Analysis

- A. Environmental Documentation: The applicant has completed an Initial Environmental Checklist (IEC) for this proposal. The 1986 Environmental Impact Statement was also used to provide supplemental information for the review of this application.
- B. Plan Area Statement: Tour boat and waterborne transit operations are listed as allowable uses in Plan Area Statement 066 – Zephyr Cove. The Zephyr Cove Resort is listed in the special policies as being a preferred area for tour boat operations. Tour boat and waterborne transit operations are listed as a special use in Plan Area Statement 146 – Emerald Bay. The special use findings are discussed in Attachment A.
- C. Land Coverage: No land coverage changes will occur as part of the project at any of the proposed locations.
- D. Shorezone Tolerance District: All of the proposed new tour boat destinations are located within Shorezone Tolerance District 7. Projects within Shorezone Tolerance District 7 must ensure stabilization of the backshore through vegetation maintenance and stabilization of backshore areas. Vehicle access to the shoreline is not permitted and pedestrian access to the shoreline is limited to stabilized access ways. The access to the piers has been designed to cause the least possible alteration to the natural backshore. The project, as conditioned, complies with the Shorezone Tolerance District Development Standards.