

**TAHOE REGIONAL PLANNING AGENCY (TRPA)  
AND TRPA COMMITTEE MEETINGS**

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NOTICE IS HEREBY GIVEN that on Wednesday, March 24, 2004, commencing at 9:30 a.m., the **Governing Board** of the Tahoe Regional Planning Agency will conduct its regular meeting. The meeting will take place at the North Tahoe Conference Center, 8318 North Lake Blvd., Kings Beach, CA. The agenda is attached hereto and made a part of this notice.

Governing Board Committee Items Are Action Items Unless Otherwise Noted.

NOTICE IS FURTHER GIVEN that on Wednesday, March 24, 2004, commencing at 8:30 a.m., at the North Tahoe Conference Center, the TRPA **Operations Committee** will meet. The agenda will be as follows: 1) Public interest comments (no action); 2) Acceptance of the February 2004 Monthly Financial Statements; 3) Status Report on Security Deposits; 4) Discussion on the Potential for Outside the Region Governing Board Meetings; 5) Member comments. (Committee: Chair - Perock, Aldean, Holderman, Sevison, Smith).

NOTICE IS FURTHER GIVEN that on Wednesday, March 24, 2004, commencing at 8:30 a.m., at the North Tahoe Conference Center, the TRPA **Legal Committee** will meet. The agenda will be as follows: 1) Public interest comments (no action); 2) Resolution of Enforcement Action, Robert McIntyre, Unauthorized Tree Removal, 1352 Kings Way, Placer County, California, APN 112-220-011; 3) Resolution of Enforcement Action, Gary Davis, Unauthorized Construction, 165 River Road, Placer County, California, APN 094-190-06; 4) Authorization for Prosecution of Litigation, Michael Franklin, Unauthorized Tree Removal and Violations of TRPA Cease and Desist Order, Park Avenue, Placer County, California, APN 085-102-002; 5) Resolution of Enforcement Action, Wayne Arriola, Unauthorized Grading and Vegetation Removal, 1983 H Street, South Lake Tahoe, California, APN 32-171-031; 6) Member comments. (Committee: Chair – Waldie, DeLanoy, Quinn, Slaven, Swobe, Yount)

NOTICE IS FURTHER GIVEN that on Wednesday, March 24, 2004, commencing at noon, at the North Tahoe Conference Center, the TRPA **Public Outreach/Environmental Education Committee** will meet. The agenda will be as follows: 1) Public interest comments (no action); 2) Communications Plan Update including Media Relations activities; 3) Communications Component of the Pathway 2007 Business Plan; and 4) Member comments. (Committee: Chair – Swobe, Aldean, DeLanoy, Heller, Holderman, Solaro)

NOTICE IS FURTHER GIVEN that on Wednesday, March 24, 2004, at noon, at the North Tahoe Conference Center, the TRPA **Shorezone Committee** will meet. The agenda will be as follows: 1) Public interest comments (no action); 2) DEIS Status; 3) DEIS Alternative 5 Discussion; and 4) Member comments. (Committee: Chair – Sevison, Quinn, Waldie, Galloway, Perock, Smith, Swobe, Yount)

March 15, 2004



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 Al 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

North Tahoe Conference Center  
8318 North Lake Blvd.  
Kings Beach, CA

March 24, 2004  
9:30 a.m.

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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. For agenda management purposes, approximate time limits have been assigned to each agenda item. 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.

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AGENDA

- I. PLEDGE OF ALLEGIANCE (5 minutes)
- II. ROLL CALL AND DETERMINATION OF QUORUM (5 minutes)
- III. PUBLIC INTEREST COMMENTS – **All comments are to be limited to no more than five minutes per person.**

*Any member of the public wishing to address the Governing Board on any Agenda item not listed as a Project Review, Public Hearing, TMPO, Appeal or Planning Matter item may do so at this time. However, public comment on Project Review, Public Hearing, Appeal and Planning Matter 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 (5 minutes)
- V. APPROVAL OF MINUTES (5 minutes) 1
- VI. CONSENT CALENDAR (see agenda, page 4 for specific items) (5 minutes)
  - A. Consent Items
- VII. RESOLUTIONS (10 minutes)
  - A. Resolution by Coe Swobe Memorializing Governor Mike O'Callaghan
- VIII. GOVERNING BOARD MEMBER REPORTS (10 minutes)
- IX. REPORTS
  - A. Executive Director Status Report (30 minutes)

- 1. Monthly Status Report on Project Activities 23

2.	Inventory of Existing/Potential New Piers	
3.	Update on Fuels Management Action Plan	
4.	Update on Nevada Oversight Committee	
5.	Discuss Governing Board Retreat	
6.	Threshold Conflict Resolution Strategies Relative to EIP and Other Public Projects	<b>29</b>
B.	Legal Division Monthly Status Report ( <u>10 minutes</u> )	
X.	PROJECT REVIEW ( <u>30 minutes</u> )	
A.	Hiroko Nakazato Trust Pier Extension, 4798 North Lake Boulevard, Placer County, APN 115-060-09, TRPA File No. 20021274. ( <u>30 minutes</u> )	<b>33</b>
XI.	PLANNING MATTERS	
A.	Annual Water Quality Report ( <u>10 minutes</u> )	<b>53</b>
B.	Report on Road Abrasives and De-Icers ( <u>30 minutes</u> )	<b>55</b>
C.	Discussion of Role of Governing Board in Pathway 2007 Process ( <u>60 minutes</u> )	<b>57</b>
D.	Adoption of 2004 Regional Transportation Improvement Program ( <u>15 minutes</u> )	<b>59</b>
XII.	PUBLIC HEARINGS	
A)	Amendment of Code of Ordinance Chapter 2, Definitions, and Chapter 18, Permissible Uses, to Recognize the Use of Single Family Residences as Vacation Rentals and Other Matters Properly Related thereto; ( <u>30 minutes</u> )	<b>65</b>
B)	Amendment of Appendix H, A Visual Assessment Tool for Projects Located Within the Shoreland, of the Design Review Guidelines to Add Flexibility to the Rating System for Evaluating Glass Based on Reflectivity; ( <u>15 minutes</u> )	<b>75</b>
C)	Notice of Sixty (60) Day Public Review and Comment Period for the Tahoe City Marina Master Plan Draft Environmental Impact Statement (DEIS) and Draft Environmental Impact Report (DEIR); ( <u>30 minutes</u> )	<b>85</b>
D)	Amendment to Chapter 43, Subdivisions, and Related Chapters, to Provide Exemptions for Certain Existing Structures From Density and Low Cost Housing Requirements; ( <u>45 minutes</u> )	<b>87</b>

XIII. APPEALS

- A. Appeal of Executive Director Denial of Subdivision Application, Ancil Hoffman, 210 Robin Drive. Washoe County, NV, APN 132-212-02, TRPA File No. 20031159. (15 minutes) **107**

XIV. ADMINISTRATIVE MATTERS

- A. Consideration of Action on Proposed Public Safety Policy (30 minutes) **115**
- B. Request by Board Member Tim Smith to Reconsider Board Action on Amendment of PAS 068 Round Mound to Change Single Family Dwelling from a Special Use to an Allowable Use. (10 minutes)

XV. COMMITTEE RECOMMENDATIONS AND BOARD ACTION (10 minutes)

- A. Operations Committee
- B. Legal Committee
- C. Public Outreach/Environmental Education Committee
- D. Pathway 2007 Committee
- E. Shorezone Committee
- F. Local Government Committee

XVI. ADJOURNMENT

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CONSENT CALENDAR

	<u>Item</u>	<u>Recommendation</u>	
1.	February 2004 Financial Statement	Accept	<b>141</b>
2.	Resolution of Enforcement Action, Robert McIntyre, Unauthorized Tree Removal, 1352 Kings Way, Placer County, California, APN 112-220-011	Approve	<b>167</b>
3.	Resolution of Enforcement Action, Gary Davis, Unauthorized Construction, 165 River Road, Placer County, California, APN 094-190-06	Approve	<b>171</b>
4.	Resolution of Enforcement Action, Wayne Arriola, Unauthorized Grading and Vegetation Removal, 1983 H Street, South Lake Tahoe, California, APN 32-171-031	Approve	<b>177</b>
5.	Authorization for Prosecution of Litigation, Michael Franklin, Unauthorized Tree Removal and Violations of TRPA Cease and Desist Order, Park Avenue, Placer County, California, APN 085-102-002.	Approve	<b>181</b>

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

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Tahoe Regional Planning Agency Governing Board Members:

Chair David A. Solaro, El Dorado County Supervisor  
Vice-Chair Wayne Perock, Nevada Department of Conservation Appointee  
Shelly Aldean, Carson City Board of supervisors Member  
Hal Cole, City of South Lake Tahoe Member  
Drake Delanoy, Nevada Governor's Appointee  
Jim Galloway, Washoe County Commissioner  
Dean Heller, Nevada Secretary of State  
Reed Holderman, California Assembly Speaker's Appointee  
Tom Quinn, California Governor's Appointee  
Larry Sevison, Placer County Board of Supervisors  
Ronald Slaven, California Governor's Appointee  
Tim Smith, Douglas County Commissioner  
Coe Swobe, Nevada At-Large Member  
Jerome Waldie, California Senate Rules Committee Appointee  
Stuart Yount, Presidential Appointee



TAHOE REGIONAL PLANNING AGENCY  
GOVERNING BOARD

TRPA Office, 128 Market Street  
Stateline, Nevada

February 25, 2004

REGULAR MEETING MINUTES

I. PLEDGE OF ALLEGIANCE

Chairman Dave Solaro called the February 25, 2004, regular meeting of the Governing Board of the Tahoe Regional Planning Agency (TRPA) to order at 9:35 a.m. and asked Board member Quinn to lead in the Pledge of Allegiance.

II. ROLL CALL AND DETERMINATION OF QUORUM

Members Present: Mr. Smith, Mr. Waldie, Mr. DeLanoy, Mr. Heller, Mr. Cole,  
Ms. Aldean, Mr. Slaven, Mr. Perock, Mr. Quinn, Mr. Galloway,  
Mr. Swobe, Mr. Sevison, Mr. Solaro  
Members Absent: Mr. Holderman, Mr. Yount

III. PUBLIC INTEREST COMMENTS

Executive Director John Singlaub introduced and described the educational background of recently hired planner Jason Ramos. Jason would be working on soils and stream environment zone planning issues. Mr. Singlaub also thanked Julie Frame for providing assistance with the minutes over the last eight months. This was her last meeting.

IV. APPROVAL OF AGENDA

Mr. Singlaub advised of the following items to be continued to the March meeting: 1) agenda item XI.C. (Report on Road Abrasives and De-Icers) so Caltrans could be present; 2) agenda item XIII (Consideration of Action on Proposed Public Safety Policy) at the request of Board member Jim Galloway; 3) item IX.A.2. (Inventory of Existing/Potential New Piers) so Mr. Holderman, who requested this item, could be present. Current information on the status of piers would be provided to the Board members.

MOTION by Ms. Aldean to approve the agenda as amended. CARRIED.

V. APPROVAL OF MINUTES

MOTION by Mr. Perock to approve the January 28, 2004, Governing Board minutes as presented. CARRIED.

VI. CONSENT CALENDAR

Operations Committee Chairman Perock noted that the committee meeting earlier in the day had recommended approval of items 1, 2, 3, 7, 8, and 9. Legal Committee Chairman Waldie noted the committee's earlier recommendation for approval of items 4 and 5.

MOTION by Mr. Sevison to approve the consent calendar. CARRIED.

(Following are items approved on the consent calendar: 1. January 2004 Financial Statement (accepted); 2. Adoption of General Financial Policies Statement; 3. Fourth Quarter 2003 Investment Report (accepted); 4. Resolution of Litigation, TRPA v. Kendall, Eastern District of California, Case No. Civ-S-02-2703 GEB (JFM), Unauthorized Pier Construction, Jack and Rebecca Kendall, 7728 North Lake Blvd., Kings Beach, Placer County, California, APN 117-140-03; 5. Resolution of Enforcement Action, William Cherry, Terri Cherry and Ferguson Excavating Inc., Unauthorized Grading, Vegetation Removal, and the Establishment of a Secondary Use Without a Permitted Primary Use, 830 West San Bernardino Avenue, South Lake Tahoe, California, APN 34-591-01; 6. North Tahoe Middle School/High School Modification, Tahoe Truckee Unified School District, 2949 Polaris Road, Placer County Assessor's Parcel Number 93-010-15, TRPA File No. 20031254; 7. Release of Mitigation Funds (\$365,504) to El Dorado County; 8. Release of Mitigation Funds (\$877,500) to Placer County; 9. Resolution Amending Policy 3.10 (Retirement Program) of the TRPA Employee Personnel Policy Manual)

## VII. RESOLUTIONS

### A. Resolution in Honor of Fred Welden

Vice Chairman Wayne Perock presented a Board resolution to Fred Welden, honoring him for his years of service to Nevada and TRPA on Tahoe issues. Fred had recently retired from the Nevada Legislative Counsel Bureau as its Deputy Research Director and had served with the State since 1973 and as staff person for the Tahoe Oversight Committee since its inception.

MOTION by Mr. Swobe to adopt the resolution commending Fred Welden for his years of service. CARRIED.

Mr. Swobe commented on Fred's extensive knowledge of Lake Tahoe and the Sierras; he was the person Nevada legislators went to whenever there was a question on Tahoe issues. He was always very courteous, helpful and extremely knowledgeable about Lake Tahoe and the Sierras in general. He would be missed. In accepting the resolution, Mr. Welden thanked the Board for the recognition and commented on the hard work done by the TRPA Board over the years on the many complicated issues that it faced. He was honored to have worked with TRPA and to be recognized by its board.

On a matter not on the agenda, Chairman Solaro presented Deputy Executive Director Jerry Wells with a framed photograph and complimented him for his service to the Agency on several occasions when he had served as Acting Executive Director while the Board recruited and hired a new executive. Jerry had done an outstanding job in this capacity on three different occasions and was recognized for his work as a community consensus builder. In accepting the honor, Mr. Wells spoke on his work with the Agency since 1985, his short time away from TRPA, and his return. He appreciated working with the Board and the staff, and he would continue to work with the Board and to support the new Executive Director John Singlaub.

## VIII. GOVERNING BOARD MEMBER REPORTS

Mr. DeLanoy commented on the Board's unanimous adoption two years ago of scenic ordinances and the subsequent litigation filed in federal court by the Committee for Reasonable Regulation. One of the thrusts of the group's claim related to health and



safety, and at the last meeting Board member Galloway had raised the issue and started campaigning for adoption in the Regional Plan of a health and safety provision on every project coming before TRPA. He was concerned because the Board had to deal with attorneys in its defense of lawsuits in a confidential manner. He had gotten a copy, as did other members, of a recent Bonanza newspaper article suggesting TRPA was foot-dragging on public safety. Mr. Galloway was quoted on the issue of TRPA's recognition of public safety in its rules and regulations. With regard to some of the statements in the paper, he was concerned that there may be a conflict between one of the Board members and the litigation. He posed the issue to Agency Counsel John Marshall, suggesting that he was not in a hurry for an immediate response and that Mr. Marshall may wish to confer with the Attorneys General in California and Nevada for their comment.

Agency Counsel John Marshall responded that he was comfortable in responding to the concern now. There was no financial issue involved in a Board member's participation in discussion on public comments. The only conflict of interest provision in the bistate compact related to a financial conflict.

Mr. DeLanoy asked if any other Board members were aligned with this particular committee. (There was no response.) Chairman Solaro suggested this was not the time to get into this matter.

Mr. Galloway protested, suggesting the matter had descended to a personal attack. He was not aligned with any group except to the extent he agreed with the issue. He had no part in forming and no contact with the committee. He did not know this would be a point raised by the committee until he had attended the court session last week. He urged the Board to have an open mind on all issues. There may be a number of independent groups reaching the same conclusion on public health and safety. He was the Vice Chairman of the North Tahoe Conservation District, and a report by the new NRCS member advised of rules being set up for allocating monies to the Tahoe Basin. One point she raised was the extent there were additional funds coming in that would be geared to EIP projects. The Gondola and Southern California fires had been a wake-up call and fire prevention was a top priority. If EIP projects were not geared to fuel reduction, money coming in could not be used for that purpose. He urged TRPA to work with the Forest Service, the California and Nevada State Lands agencies to add fuel reduction projects into their lists of EIP projects.

Mr. Waldie asked whether TRPA was aware of the recent sewage spill in the Upper Truckee River, as reported in the February 25 Tahoe Tribune issue. Deputy Executive Director Jerry Wells responded that two TRPA inspectors were on the site yesterday and would report on it later.

With regard to Mr. DeLanoy's concern, Mr. Quinn commented that, while he did not always agree with Mr. Galloway, he had never felt that he had ever acted in any way other than how he believed. He found it unfortunate that he was so articulate on his point of view but that was democracy. In his two years on the Board, he had come to respect everyone on the Board and had found Mr. Galloway to serve with integrity. On another matter, Mr. Quinn asked that the pier report contain a review not only of what existed on the Lake but also contain information on the number of piers that were multiple use and the number of piers that were available to the public.

In view of the Board's January discussion on the NTPUD bike trail, Mr. Cole asked that at some point the staff bring to the Board a discussion on how to deal with thresholds. In his opinion, a project should be allowed to proceed if it provided a positive effect on a threshold, even if it had a negative impact on another. The current policy did not allow the Agency to proceed with an approval if there was any negative threshold impact. As a result, in some cases, nothing was done and often project funding was lost. There needed to be some latitude in the process.

Mr. Swobe agreed and suggested state legislation may be needed to give TRPA authority to allow one threshold to trump another. TRPA often was at loggerheads and nothing happened.

Chairman Solaro suggested the Pathway 2007 planning effort was one area where this threshold issue would be addressed. Mr. Cole responded that waiting for 2007 may result in loss of some project funding. He wanted a policy stated in a public forum so that the Board would know what options it had to modify the process on a case-by-case basis.

Mr. Sevison agreed and suggested on these projects there should be an ability to mitigate to the extent possible.

## IX. REPORTS

### A. Executive Director Status Report

#### 1. Monthly Status Report on Project Activities

Executive Director John Singlaub commented on the new information provided in the February status report. Because the task of researching applications on file which were not complete required an additional five hours of staff time and the report itself took three to five person days to research and prepare, he wanted to determine if it was of such value to the Board members that the effort should continue. He favored looking at a more streamlined or abbreviated way to address the basic concern which prompted the report in the first place. A more streamlined approach would free up planner time to focus on review of project applications.

Chairman Solaro spoke in favor of a more streamlined approach.

Mr. Singlaub explained staff maintained records of project status in order to know what was happening and where additional work was needed. The compilation of the report for the Board packets each month was an additional work load. While he understood the importance of knowing where the backlog was, he would provide the Board with a recommendation for a different reporting process.

Mr. Galloway commented on the time needed to prepare the initial report. He questioned if there was some kind of computer program which would track the applications while reducing staff time. He agreed with having the Executive Director provide a recommendation for streamlining the process.

Mr. Slaven suggested this was originally brought up because the public was complaining about delays in review of applications. The Basin's economy was important, and

counties needed to get out their permits. The streamlined approach should look at how many commercial and how many EIP projects were being funded in the Basin. This information was an economic indicator and could be provided in a three- to six-month or year-end report.

2. Inventory of Existing/Potential New Piers (continued to March)
3. NTPUD Bike Trail Alternatives Update

Executive Director Singlaub advised the Board that he had met on the site with the Forest Service and the NTPUD staff and met subsequently with the California Tahoe Conservancy and U.C. biologist. They had agreed on a new route that would avoid the wildlife activity centers that were of concern. While there were potentially other issues, he felt there was an alternative that should be the signal to the proponent to go forward. He believed that these solutions could be developed if everyone worked together. There was no excuse for this to have dragged on for 13 years. Getting the bike trail and at the same time protecting the habitat were the kind of solution TRPA needed to look at.

4. Update on Fuels Management Action Plan

Mr. Singlaub advised that staff had been continuing to meet with the Fire Safe Councils and Fire Districts around the Lake to prepare a five-year blueprint for wildfire reduction, the first phase of which would be completed this August. Mr. Singlaub summarized the various phases and commended the committee for its work. TRPA had begun work on the MOUs and was starting off with the North Lake Tahoe Fire District, which included Incline Village. This MOU, which would serve as a template for other MOUs with other fire districts, would make determinations on defensible space. Not all fire districts were anxious to take on the additional roles required by the TRPA requirements. Chapter 71 amendments were approved last month, and the necessary 208 Water Quality Plan amendments were on this month's agenda. Certain fuels management projects in the EIP program were moving forward. Ed Smith, of the Nevada Cooperative Extension, and others had put together a workshop and prepared a report entitled "Living with Fire in the Lake Tahoe Basin." This addressed defensible space management and other topics, consistent with TRPA's regulations and code of ordinances. He wanted TRPA to endorse the workshop and add its logo to the others on the front of the report.

Mr. Singlaub explained that all of these matters and elements would be contained in the Fuels Management Action Plan in time for the March 15 Nevada Legislative Oversight Committee meeting. A March 13 forum sponsored by Assemblyman Tim Leslie was scheduled at the Lake Tahoe Community College campus. California Senator Dianne Feinstein was planning to attend. It would be the kickoff for development of community plans for fire districts around the Basin, with a completion date of August. This was the blueprint the legislators were looking for and would be in place by early August in time for the next summit at the Lake. TRPA staff would participate in the March 13 event.

Mr. DeLanoy questioned the progress being made on funding fuels reduction efforts. He suggested a brochure for public distribution be provided prior to the March 13 event.

Mr. Singlaub responded that the Action Plan would be what Mr. DeLanoy was looking for, and a grant was being provided to help with this effort. The Forest Service and fire districts were looking at funding as well.

Deputy Executive Director Carl Hasty advised that a lot of information would be available in March. During his recent trip to Washington, D.C., he had discussed existing grant programs and what was in the EIP. That package should be updated and shared with the Board and public. While Senators Reid and Ensign would not be attending the March 13 event, their staffs would be present.

Mr. Swobe asked that Board members be provided with the March 13 agenda. Senator Feinstein's involvement and willingness to take on a leadership role in getting roadblocks out of the way so fuel reduction could occur in the Basin was an extremely important step. TRPA should provide her as much backing as possible.

Ms. Aldean questioned whether TRPA was going to be addressing potential bio-terrorism threats in the drafting of the MOUs. A dramatic way to affect an economy was to contaminate vital resources. Mr. Singlaub responded that he was trying to keep TRPA out of such public safety issues. TRPA would be happy to assist if conflicts with Agency ordinances became an issue, but he was not aware of any direct contact by other agencies on this matter.

Mr. Galloway generally agreed that TRPA not become a public safety agency but did not want TRPA in its actions to inadvertently diminish public safety. TRPA should not take over the functions of agencies that had expertise in these areas. On the fuels reduction issue, Mr. Singlaub had stated he had found no conflict with the ordinances; he would use this statement to allay fears he had in this regard.

Mr. Singlaub suggested the biggest danger of fire was not in areas between the Lake and homes. Other areas were of higher priority from a fire standpoint. Ordinance conflicts would be identified in the preparation of the MOUs with the fire districts. He did not see any conflicts in the program put together by Ed Smith. There may be ways to clarify this in the MOUs. There would be a defensible space component in the plan.

Mr. DeLanoy suggested TRPA was not in the fire fighting business. That was not TRPA's role. He did not know of anything TRPA had done in its ordinances that inhibited the fire districts from following their programs.

Mr. Singlaub advised he would be providing more information on the upcoming April 29 Governing Board retreat.

The Board took a short recess.

#### B. Legal Division Monthly Status Report

Agency Counsel John Marshall provided a status report on the appeal in the litigation over TRPA's approval of a pier in Glenbrook. He also discussed the potential for a pier request in a new location and whether this would be considered an amended application or a substantial change to warrant a new application. Mr. Marshall also provided the Board with a synopsis of the recent bench ruling by the Nevada District Court in the scenic litigation.

Mr. Swobe congratulated Mr. Marshall and Assistant Counsel Jordan Kahn for their work at the hearing. Mr. Heller also thanked John for his hard work. Two recent gaming summits he had attended addressed the economic health and well-being of northern

Nevada and the Tahoe region. That health was based in large part on the health of the Lake. The actions of legal and other staff in putting the scenic ordinance in place and the hard work of the Board were exemplified by the ruling of the judge.

Chairman Solaro adjourned TRPA and convened the Tahoe Metropolitan Planning Organization.

X. TMPO

A. Approval of FY 2003-04 TMPO Overall Work Program Amendments

Transportation Planner Bridget Cornell distributed a handout to the Board, explaining they contained additional tables which were mistakenly not included in the packet materials. She provided an additional modification to Table 1 of the handout. She discussed the purpose of the work program document to identify the transportation planning division's yearly program, the various federal and state funding sources and their requirements, and the specific proposed amendments. Amendments related to salary expenditures, staff reductions and changes, direct cost and contract changes for Regional Transportation Plan updates and traffic models, and TRPA General Fund amounts.

Operations Committee Chairman Perock noted that his committee earlier in the day had considered and recommended adoption of the proposed resolution.

Mr. Steve Teshara, a member of the Tahoe Transportation District and Commission Board of Directors, expressed concern that not all tables referred to in the staff summary were in the packet, and the public had not been given copies. He would have liked more of the detail on funding and staffing changes prior to the meeting. These should have been disclosed in the staff summary so the public would know and understand exactly what was going on. This item had not come before the TTD and Commission Board prior to coming to the TMPO. When the Board adopted the OWP at the beginning of the year, he had provided a comment letter on the Transportation Development Act monies available from California for transit operating. These funds were locked up for administrative local match for the federal planning dollars received because of TRPA's MPO status. There should be a concerted effort collectively to reduce the amount of these monies so that they could be used for transit operating in California. Mr. Teshara questioned why, when the two states agreed to fund TRPA, the transportation staff was not funded out of TRPA's general fund. Transportation played a fundamental role in achieving thresholds but was not a part of the general fund support received from California and Nevada. TRPA in its funding requests should ask that the transportation group be supported as the rest of the staff divisions were supported. This would free up some of the money locked up administratively to be used for transit operations. He hoped this would be taken into account in the next round of budget requests to the states.

Ms. Cornell responded that the tables were omitted from the packet because the large spreadsheet format did not transfer in the copying process. The staff summary did contain information on staff transfers and increase in consultant costs, although they were not itemized specifically. Ms. Cornell explained the use of funds for administrative and planning purposes and noted that this item was placed on the TTD agenda for February 13, but the meeting was cancelled. The amendments needed to be submitted

for approval by both California and Nevada by the end of March. If action had been delayed by the TMPO until the March meeting, the timeframe would be too tight to get the processing completed. Amendment of the OWP also required amendment of the agreement that programmed federal planning funds. Normally this would have gone to the TTD for review and comment.

Mr. Sevison agreed with Mr. Teshara's comment that the Board should look at budgeting the TTD as a sister agency within TRPA's budget program.

Deputy Executive Director Carl Hasty noted that he had been serving as the TTD and Commission director and had made a commitment to the TTD that TRPA would help in pursuing state funding. The TTD had no state funding at all, and he was committed to looking at the overall transportation organization in the Basin to see how TRPA could through the state budget process create operating dollars for staffing and other services.

MOTION by Mr. Perock to adopt the resolution to amend the FY 2003-2004 TMPO Overall Work Program. CARRIED.

Chairman Solaro adjourned the TMPO and reconvened the TRPA Board.

#### XI. PLANNING MATTERS

##### A. Resolution to Lower the Individual Parcel Evaluation System (IPES) Line in El Dorado County

TRPA Planner Tim Hagan noted that an amended resolution lowering the IPES line in El Dorado County had been distributed. The movement of the line was an annual action by the Board. He responded to Mr. Galloway's question regarding movement of the line in California, noting that the line in El Dorado County had moved down two times; this was due generally to the finding regarding the vacant lot equation. The IPES line was adopted in 1989. Mr. Cole suggested that one factor in movement of the line involved the pool of allocations given for retiring vacant lots.

No one from the audience wished to comment.

MOTION by Mr. Cole to adopt the resolution as amended by the Attachment B handout. CARRIED.

##### B. TMDL Presentation

Water Quality Program Manager Larry Benoit started this item by introducing Dave Roberts, with Lahontan's Total Maximum Daily Load group. This group had been working for over two years on the development of the TMDL for Lake Tahoe and load reduction needs for phosphorous, nitrogen and fine sediment. This was the biggest package of scientific information and research to date for Lake Tahoe. He distributed a copy of Mr. Roberts' PowerPoint presentation.

Mr. Dave Roberts began his presentation by explaining that the Lake Tahoe Total Maximum Daily Load (TMDL) effort was a bistate effort being developed collaboratively between the two states. The Lahontan Regional Water Quality Control Board was the designated authority for development of the program in the area extending in California



from the Oregon border to the Mojave Desert; the Nevada Division of Environmental Protection was the analogous agency in Nevada responsible for developing TMDLs. Mr. Roberts' presentation, as summarized on the handout, provided an overview of the program and its research, the phases of the program and public participation elements, use of the clarity model developed by U.C. Davis, and planning tools to be developed as a part of the program. The program, which was generally a water quality restoration plan, was a key for the Pathway 2007 water quality threshold update. Section 303(d) of the Clean Water Act called for states to list impaired water bodies or waters not meeting their applicable water quality standards. Tahoe was prepared for deployment of TMDLs as a result of the last 20 years of regulatory and planning efforts. Mr. Roberts provided a detailed presentation on the program; the load reduction model for nitrogen, sediment, and phosphorus; conceptual clarity improvement load reduction alternatives; indicators, milestones and objectives; a monitoring plan; and a timeline for research, technical development, planning and policy development. He responded to Board member questions on the role of water quality and clarity; the role of phosphorous in algal growth and sediment contribution to clarity; Lake Tahoe's historic fish population and effects of the Comstock; the availability of background information on the experts contributing to the study's indicators; the benefits of completing similar analyses for each of the nine thresholds; and the inclusion in the report of a fire impact model.

The meeting recessed for a lunch break from 11:50 a.m. to 1:10 p.m.

C. Report on Road Abrasives and De-Icers – continued to March

## XII. PUBLIC HEARINGS

A. Notice of Preparation and Scoping for the Tahoe Beach Club  
Environmental Impact Statement (EIS) Kahle Drive, Stateline, Nevada

Project Review Planner Paul Nielsen noted the purpose of the discussion was to receive comments from the Board and public on the scope of the environmental document for the proposed project. Once prepared, the draft document would come back to the Board in late summer for comment, and a final document would follow.

Mr. Bob Mecay, a principal in Beach Club, Inc., the project developer, described an aerial photo of the 19.7 acre, two-parcel property and the surrounding properties and uses (4-H Camp, Nevada Beach, Edgewood Golf Course, restored pond, and Lake Tahoe). The property currently contained 155 mobile homes, a maintenance shed and KGID pumping station. The project would reestablish the historic hydrologic patterns on the site and construct a beach club and pier, residential buildings in four styles (multi-family lodge style, estate homes containing four to eight units, a carriage house with 17 affordable units, a gatehouse with three units and one affordable unit). All units other than the affordable units would be wholly owned, for-sale housing. Within the project's open space, a wetland stream and pond water quality treatment project was proposed. The proposed project would reduce existing coverage by approximately 100,000 square feet. Mr. Mecay presented more information on proposed architectural styles, building height, the proposed 142 residential units of which 18 were to be affordable employee units, the clubhouse (pool, health club, and restaurant), and scenic upgrade of the KGID pump station. The existing pier would be rebuilt and allow public access to the beach club and nearby Nevada Beach. The pier would extend 400 feet and could be a part of a future

transportation program. Mr. Mecay described the group and individual meetings with current mobile home park residents.

Mr. Jim Jordan, consultant retained by TRPA through a third party contract to prepare the EIS, presented slides outlining the document preparation schedule, the project alternatives and options, and the extent of public outreach for the public scoping meetings. The issues and concerns raised in the two public scoping meetings included, in part, lack of suitable housing; impacts on the KGID water intake line; the adequacy of emergency access; the determination of fair market value; noise from the 4-H camp; impact to fishing at Nevada Beach and on Tahoe Yellow Cress; high groundwater/drainage impacts; impacts to wildlife; detention ponds; and relocation of excavated materials. The Advisory Planning Commission issues related to dealing with a need for a fair share of housing; addressing environmental and social justice; uniform building characteristics; water taxi permit issues; impacts of the restaurant and increased traffic; obtaining Washoe Tribe input; treatment of the no-project alternative; assessed valuation and drinking water supply issues; and loss of affordable housing. A scoping summary report would be prepared as a result of these meetings and placed on the project's web site. It would be incorporated into the draft document. Mr. Jordan responded to Board member questions about public access for the restaurant, the pier design and its public use, capacity issues, possible shared use of the access road, and noise impacts.

Mr. Mecay responded to questions regarding the role of the project proponent in assisting current park residents in their relocation efforts. State law required notification of current residents of the proposed change of use of the park, a six-month period of time for current residents to relocate, a requirement for the proponent to pay for moving the trailers up to 50 miles away (including taking the trailer up, disconnecting, permitting, and reconnecting), and, if no relocation was to occur, an appraisal process to include paying the appraised amount less the cost of moving. Because of the loss of affordable housing, the consultant was now determining what units would be required. In addition to the 18 affordable housing units now proposed.

Mr. Nielsen explained that the first requested action would be approval of a multi-family 142-unit project, followed potentially by approval of a subdivision of that project into 142 separate condominiums. The ordinance required that if the action resulted in a loss of low income housing it be mitigated on a 1:1 basis. The consultant's analysis would look at income levels in the park. There would be no net decrease in the Basin's available low cost housing if the project was approved. This would be addressed in the document's mitigation feasibility section. At the time staff brought forward a project recommendation, there would be mitigation requiring a specific number of housing units that must be replaced because of the effect of the subdivision on the loss of low income housing. This number was not known at this time.

Mr. Galloway asked that the document look at the pier for both public use and restricted use, the same way the restaurant was being evaluated. He also wished to see both pier and restaurant parking and traffic impacts.

Mr. Smith asked that the concerns expressed by the public and by the Advisory Planning Commission be addressed in the EIS.



Mr. Slaven questioned the criteria for the mobile home appraisal, whether it would include looking at the value of the location, and whether the EIS would look at available mobile home parks within a 50-mile radius for possible relocation of existing units. He also questioned the feasibility of mitigation and suggested that a mobile home, even if used as a second home, should be viewed as an affordable unit. If a unit had been moved out leaving an empty space, he questioned whether the space was considered vacant because it could not be used or vacant because the park's owner did not want it to be used. This space could possibly be viewed now as an affordable housing unit.

Mr. Jordan responded that the housing expert was now working with an appraiser who would be using accepted standards for determining the value of the coach itself and its location advantages and disadvantages. The document would look at location of other mobile home parks for relocation purposes. The project proponent was aware of concerns regarding the appropriateness of replacing lost affordable housing units within Douglas County and not looking to South Lake Tahoe or El Dorado County to provide those units. A good amount of work would be done in the next several months looking at the 155 units to identify which were really affordable under the Nevada requirements and of those how many had to be mitigated. While the final numbers were not yet available, the initial analysis indicated that not all 155 units were affordable. The project proponent recognized that the housing issues needed to be addressed in the document; the existing condition should be analyzed, impacts determined, and mitigation proposed.

Mr. Quinn expressed concern with the document's ability to address noise impacts on the 4-H Camp resulting from the replacement of a mobile home park with upscale development. It would be a shame to lose low income housing and also end up restricting the 4-H Camp. These now were two desirable and compatible uses.

Ms. Aldean commented on the water drainage from the park to the 4-H property. This should be addressed and rectified. She questioned if the units were affordable because of the rents being charged or if they were deed-restricted as affordable. Mr. Jordan responded they were affordable because of the rents being charged. Some units were affordable under the current standards. He estimated that 142 of the 155 units were currently occupied; the number of those that were affordable under state statute would be determined in the analysis.

Mr. Galloway summarized that the document should address impacts on adjacent properties including the 4-H Club, and mitigation should take into account that TRPA's Local Government Committee defined affordable housing as deed restricted affordable housing that could not be lost in the future.

Chairman Solaro opened the meeting to public comment, noting speakers representing a group would be given five minutes, individuals three minutes. The merits of the project were not the issue before the Board but rather the scoping of the environmental document. No Board decisions would be made today.

(Mr. Heller left the meeting during this agenda item.)

Mr. Bob Cook, on the KGID Board of Trustees, submitted a letter from his board chairman advising that the District provided drinking water to approximately 2,400 water connections in the Kingsbury, Oliver Park and Lake Village areas of Stateline. Its water intake line extended 650 feet into Lake Tahoe, directly offshore from the Tahoe Shores

Mobile Home Park. Because the proposed pier and moorings would greatly increase boat traffic in the vicinity of this intake and potentially degrade source water, it was critical for the EIS to address impacts on water quality. The KGID met recently with Reno engineers and the developer to discuss maintenance access for construction equipment, noise impacts from the water pump station, ventilation, temperature and security requirements, intake and exhaust, health and safety. The proposed building over the pump station would create numerous problems, because the building needed to be completely enclosed but allow air intake and exhaust. Safety, fire prevention, ozone escape were important issues that needed to be addressed. The group also discussed the pier in relation to the intake line, navigation impacts, Coast Guard concerns, the surface water pollution, boats bilging into the Lake, and the possibility of an intake extension. The developer had been diligently working with KGID to identify and address all concerns. As a member of the Tahoe Douglas Fire Protection District Board, Mr. Cook commented that to date the conceptual plan as proposed was adequate for road width and turnaround and that questions regarding the pump station be addressed. As a 31-year resident of the Kingsbury area, Mr. Cook expressed concern with the proposed pier and possible impacts to water quality. He was concerned that the 400-foot long pier would have an impact on the Hobart Hole where he had been fishing for years.

Mr. Mike Ingenluff, president of the Tahoe Shores Homeowners Association, distributed a handout showing impacts of increased rents, relocation and compensation prospects. Space rent in 1990 was \$360, in 2000 was \$497, increased \$50 in 2001 and \$50 in 2002. The developer purchased the park in February 2002. The residents were notified in July 2002 that the property would be redeveloped, that rents would be increased based on lot size and location, and that residents would be paying for water. Mr. Ingenluff's handout itemized rent and water increases from 1999 through February 2004, their impact on renters (60 families moved or sold out or abandoned units), the criteria of the subsidy program for residents, and inability of owners to sell their units. Mr. Ingenluff provided NRS information regarding landlord obligations and actual relocation prospects for the current residents. There was no mobile home park within a 50 mile radius that would take a home older than 10 years. The option of relocating the homes was not an available option. Determining fair market value for the units was not yet resolved. If the developer was allowed to proceed with the project, Mr. Ingenluff asked that there be just compensation for the units.

Mr. Travis Lee, representing the UNR 4-H Camp, commented on the proposed pier, increased traffic and impacts on the Camp's beach area and its kayaks and canoes. The Camp's average group size was 170 from May 1 through October, and individual user groups had increased from 21 to 33 because of financial constraints and the resulting closing of other camps. If this continued, the camp would become a year-round facility. Because of increased rents, some of the park renters had moved, and new owners had come in. Noise complaints were a problem and could continue to be an issue, particularly with proposed units being within 15 to 20 feet from the fenced property line. The multi-level dwellings could also create security and privacy impacts due to their proximity to camp units. Mr. Lee expressed concern with increased navigational problems and potential accidents due to the longer pier and increased traffic. He commented on potential impacts on Tahoe Yellow Cress, wildlife on the beach, and Eurasian water-milfoil and suggested a wall might be constructed for security purposes between the properties.

Mr. Steve Ray, vice president of the Tahoe Shores Homeowners Association, distributed and presented a report on employee and affordable housing problems in the area. He commented on the 21 percent increase in home prices over the last six years and the loss of the working class who could not afford to live in the Tahoe Basin. Douglas County school enrollment at the lake was down 29 percent in the last six years. The loss of the mobile home park could have a large impact on Whittell High School, because families were shifting to where houses were affordable. There existed a shortage of housing for low to moderate income residents, and it was in the public interest to encourage the maintenance and preservation of this housing to improve the living conditions of workers in the area. What existed already should be protected. Manufactured home parks represented an opportunity to solve a significant part of the affordable housing problem.

Tahoe Shores resident Jan Christensen distributed and presented a report outlining her background and the impact on her of having to move from Tahoe Shores. She commented on the project's potential negative environmental impacts to the Lake resulting from deposition of sediment from demolition and construction, the project's scenic impacts from the Lake and from the highway, impacts to Nevada Beach and the 4-H campground, potential risks to swimmers from increased boating and mooring activity, potential water quality impacts from fuel spills and bilge discharges, increased lake congestion resulting from the 400-foot long pier and marina, destruction of the Tahoe Yellow Cress habitat, and the lack of blueprints. Ms. Christensen urged the project proponent to use the money intended for the proposed pool to construct a pool at Kahle Community Park.

Mr. Jon Paul Harries, for the League to Save Lake Tahoe, noted he had previously submitted scoping comments and added a concern that the shoreline aspects were being minimized to some degree. The proposed use and the additional residents would create a higher demand than what had been presented. This needed to be addressed in greater detail, so that subsequent applications would not be coming in to increase the number of buoys and to expand piers to accommodate additional pieces of the project that were not now being addressed in the EIS.

Mr. Monroe Friedling, a 25-year Tahoe Shores resident, spoke on his behalf and for his neighbor Ed Evanson. He described his and Mr. Evanson's educational background and military experience and the impact on them of the proposed development. He asked for the Board's help to ensure they and the other 155 homeowners were protected.

Mr. Michael Donahoe, representing the Sierra Club and the Friends of Burke Creek, joined with presenters from previous scoping sessions and the APC and commented on his stream restoration and monitoring work with school children at Nevada Beach and in the Rabe Meadow. The area next to the proposed development was in a stream zone, a flood plain; it was an area that at one time it was hoped would be restored. The hydrology of the area needed careful study, and the EIS should look not only at this area but at the entire Burke Creek eco-system and the cumulative impacts to the watershed. He was concerned with the elimination of the 155 de facto affordable housing units and resulting pressure to put affordable housing on undeveloped raw, sensitive land further up Burke Creek. There were not many places left in Douglas County to put housing, and the pressure to use raw land would increase. From past history, there was no guarantee that required replacement units would be provided. Mr. Donahoe commented on the impact of the pier on recreation, on swimmers, and on non-motorized boating. Additional

long piers would destroy the non-motorized boating activity. TRPA did not pay enough attention to the cumulative impact of projects on thresholds, and this needed to be addressed in the EIS.

Ms. Norma Thayer, a 25-year Tahoe Shores resident and manufactured homes real estate sales person, noted that she had gotten some sales in the area but for only very low amounts since the project was proposed. She now was living on Social Security and what she made from a few sales. She had no where to go if she were required to move. She could not afford to move. She was concerned with the impact of bilge pumps on the Lake's water quality.

Ms. Maria Steesmith, a 25-year Tahoe Shores resident, commented on her low income and the impact of the increased rent. She did not agree with increases in water rates and did not understand why they were fluctuating. She was promised several months ago that rents would not increase.

Ms. Betty Neff, a five-year Tahoe Shores resident, commented on assurances that the nearby area would be a park. Now the residents were faced with having to move. Her 24 x 60 unit could not be moved or sold. She questioned what was going to happen to the residents because they had no where to go.

Ms. Helen Sauter, a 25-year Tahoe Shores senior citizen, commented that her only means of support was Social Security. If the park was taken away, there was no where for her to go.

Mr. Bill Hilton, a nine-year resident of Tahoe Shores and manager of Holiday Lodge, commented that he had a child at Whittell High School. If the project was approved, he would have to leave the area. Residents and school populations were being lost and the project should not be approved.

Mr. Wayne Schwammel, a retired city manager and homeowner in the park, commented on his previous public service and city manager experience and the human misery created by the developers of this project. The developer's disclosure that the park would be closed destroyed the market value of the units and resulted in the developer's purchase of unit after unit at pennies on the dollar. He then rented these units out at 25 to 50 percent return on the investment. It was unconscionable. He urged the Board to direct staff to work diligently to legally give the residents their rights.

Since no one else wished to comment, Chairman Solaro brought the matter back to the Board.

In noting the number of senior citizens who would be impacted by the project, Mr. Perock asked that the EIS look at the impact on the school systems, the loss of revenue, and how many families with children would be displaced.

Mr. Nielsen responded that typically an EIS would not get into this issue. It was in the interest of staff to find a way to look at those effects, however, so that the facts could be brought to the Board. There had been some discussion about increasing rents over time and the point at which a baseline would be drawn. CEQA required that the start of the process and the issuance of the Notice of Preparation of the EIS be considered the

baseline date. Mid-January was the date staff would use as the baseline for the rent amounts.

To a question by Mr. Waldie on the Board's authority over the issue of compensation for residents' losses, Agency Counsel John Marshall explained that state law dictated rules on mobile home park closure. TRPA had no rules that applied to that aspect of this proposed project. Mr. Waldie noted that, though the Board was torn emotionally by the testimony, he knew of no remedy for the Board with the possible exception of denying the project because of environmental deficiencies. Most of the anguish was caused by the fact this was the end of a life style that the residents could not see replicated elsewhere. It was not fair for the residents to believe that TRPA could provide some relief to their real problem. He questioned but doubted if the Board could order that affordable housing be found and that the residents be provided that housing.

Mr. Marshall suggested the issue was affordable/low cost housing and how it was mitigated. The Board had wide discretion in how it mitigated the impact resulting from closure of the park. While the Board previously had acted on a project involving mobile home and apartment units, the action was not tied specifically to the mobile home park dwellers. He would want to research further when an action could be tied specifically to the residents.

In determining the park's population numbers, Mr. Galloway suggested that, while it was fair for a developer to provide notice of intent to redevelop a mobile home park property, the baseline date could be the point at which the notice of redevelopment was given. It was not known what percentage of residents was part of the Tahoe work force whose units could be considered employee housing. The document should analyze the impact of the number of employees being displaced so the Board could take this into account in the consideration of future project conditions.

Mr. Cole noted that it was easier to mitigate environmental impacts than social impacts. The EIS should look at the housing impacts as stringently as it looked at the environmental impacts. The APC comments made it clear that social impacts could be significant. The EIS should focus on this. Mr. Nielsen responded this would be addressed.

On the question of finding an economic and environmental balance in the Basin, Mr. Slaven suggested that this balance did not apply solely to Incline property owners who were concerned about scenic ordinance effects on their property values; the balance was a pertinent issue for people in the lower income spectrum as well. The displaced residents in this case had contributed to society as a whole trying to hold on to their small slice of the pie. They likely were going to be financially impacted by this project; this needed to be scoped out not only on the affordable housing discussion but also on the cost of maintaining this balance.

Ms. Aldean suggested that if TRPA disapproved the project there was nothing TRPA could do if the land owner decided to raise rents to such an extent that people were forced to vacate the park. This would be the worst possible scenario. Better the residents be justly compensated and appropriately relocated than chased out of the development because of soaring costs of occupancy. It was important for people to understand that TRPA had no control of the rental rates; there were no rent controls, and the property was not deeded restricted for affordable housing. Even if the project were



disapproved, there was no guarantee that the people currently in the park would be able to remain.

Mr. Quinn questioned whether, if the project had no negative environmental effects, the Board would have the legal authority to turn down the project based on its social impacts. Mr. Marshall responded that TRPA was not a government of general jurisdiction; its authority ran to the extent that the Compact provided its authority, leaving to local jurisdictions some of the more social aspects of some of the equation. The Board, however, had within its general planning functions the ability in its regional plan to look at zoning. The specific question was hypothetical to the degree that a definitive answer could not be given. In determining the extent of environmental damage, TRPA would concern itself with housing. This seemed to be the biggest social issue here. Housing was a legitimate consideration, and the current code provided ways to mitigate the impacts. The code looked not necessarily at the predicament of a particular resident but at the stock of available housing in the Basin and how it would be affected by the project. TRPA's mandate was more closely tied to the generic housing issues in the Basin versus what could be done for a particular individual, an issue perhaps more suitable for local government. Mr. Waldie suggested it would be beneficial to examine whether mitigation could be specifically applied to an individual. Even if the Board found that the affordable housing element was defective and deficient and thereby denied the project, the residents would not be helped if rents were raised so high they would have to leave anyway. Mr. Galloway commented the rent versus home ownership issues came up at local governments all the time. The issue cut both ways, with renters having the ability to give notice and leave a property any time. He cautioned against individualizing remedies and suggested instead looking at the broader economic consequence. Mr. Sevison suggested the reality was that there was a better opportunity to provide lower rents for the residents in question under the auspices of a new project than if they were to stay where they were. It may be the residents would stand a better chance with the project, because they would have units at a guaranteed rent.

At the conclusion of this discussion, the Board took a brief recess. (Mr. Waldie and Mr. Swobe left the meeting. Members present for the remainder of the meeting were Cole, Slaven, Quinn, Solaro, Galloway, Perock, DeLanoy, Aldean, Sevison, Smith.)

Pathway 2007 Committee Chairman Quinn advised the Board and public that his committee would not be meeting at the conclusion of the Board meeting. The next meeting would be some time in March but not on the Board's March 24 meeting date.

## XII. PUBLIC HEARINGS

### B. Amendment of PAS 146 Emerald Bay to Add Waterborne Transit and Tourboat Operations and Related Amendments

TRPA Planner Jennifer Quashnick presented the staff summary of the amendment proposed by California State Parks to allow TRPA-permitted boats to load and unload passengers at the Vikingsholm pier for special events. Special conditions relating to passenger numbers and time of year for operation were being recommended by staff as a result of the capacity analysis.

Mr. Lew Feldman, on behalf of California State Parks and Aramark, one of the tour boat providers, asked that the condition regarding blackout dates be amended so that special

events could occur during June, as well as after Labor Day through October 15. This was consistent with Park policy and demand capacity.

Ms. Quashnick explained that, because the original application contained information for visitation from Labor Day through Memorial Day, there was not sufficient information to extend the time allowed. She urged the matter be approved as recommended by staff.

Mr. Singlaub suggested the modification of the operation dates as requested by the applicant was a change in the application. Mr. Marshall suggested the solution was to approve it as applied for and delegate to the Executive Director the determination whether or not the additional extension or the decrease of the blackout period would be appropriate, given the information that could be generated subsequent to this meeting.

Chairman Solaro noted that it appeared the proponents were agreeable to this suggestion.

MOTION by Mr. Sevison to make the findings to approve the Plan Area Statement amendment. CARRIED.

Chairman Solaro read the ordinance by title.

MOTION by Sevison to approve the ordinance amendments and to delegate to the Executive Director the determination whether the additional extension or the decrease of the blackout period would be appropriate, given the information that could be generated subsequent to this meeting. CARRIED.

C. Amendment of PAS 068 Round Mound to Change Single Family Dwelling from a Special Use to an Allowable Use

Ms. Deborah Palmer, attorney representing Pine Wild Condominium Homeowners Association, adjacent to Bourne Meadow, submitted a February 24, 2004, letter requesting a continuance of this matter because of problems with the mailing labels providing notice of the amendment hearing to adjacent property owners. She requested a one-month continuance so she could notify her clients so they be given an opportunity to be heard.

Mr. Ron Alling, attorney for the proponent, suggested that the Compact and Code did not always require notice; Article XII, section 12.6, schedule A, required seven day notice for matters coming before the Board. This notice was given. The code required the mailing and that was done. The names of all property owners were determined by the County records for property owners within 300 feet of the project area. The labels with the names were submitted to TRPA, and TRPA provided the seven-day notice. Notice was received in some cases at least 10 days prior. Staff and the applicant had complied. There was no requirement that notice be received, only that it be given.

Long Range Planner John Hitchcock explained that there was no environmental impact caused by the amendment; the issue was the noticing requirement. In changing the residential use from a Special Use to an Allowed Use, which was the case here, any future project in the subject area would not require notice to affected property owners. Mr. Alling was correct that Regional Plan amendments did not require notice to affected property owners, only notice in the newspapers. This was done. Generally, affected

property owner notice in the case of Regional Plan amendments was done as a courtesy.

Ms. Palmer suggested the requested amendment would change the Bourne Meadow designation from a Special to an Allowed Use. This would have a direct impact on Pine Wild, and its board members could not be present today. She had been asked by her board to be present to request a continuance so Pine Wild owners could be notified. Not all were within the 300 feet notice area, but their common areas would be affected.

After more discussion on the fact proper notice was given and the fact the matter was heard by the APC, Chairman Solaro directed the matter proceed.

Mr. Hitchcock presented a slide show depicting the current and proposed Plan Area changes and the request to change single family use from a Special to an Allowed Use. PAS 068 was a recreation plan area containing several residences. Instead of amending the nearby PAS 074 residential plan area to incorporate these parcels, staff suggested amending the recreation PAS 068 residential uses to treat them as allowed and not special uses. This would streamline the review process by allowing any future permit in the area to be reviewed and acted on at staff level, without a hearings officer requirement. The Plan Area Statement amendments would have no environmental impacts; the threshold findings would be determined at the time a permit was submitted and reviewed. Staff recommended approval.

Ms. Deborah Palmer, for Pine Wild Condominium Homeowners Association, noted her client owned all the property to the north of the proposed area. The change would provide that all the residents in this area would get no notice and have no hearing capability. Her board had requested that TRPA not allow this to occur. Allowed uses did not require action by a hearings officer or notice to adjacent property owners. The amendment proponents wished to have no public hearing or notice to those who would be impacted. Any application would meet thresholds but those directly impacted would be removed from the equation. This was not right or fair. This Plan Area Statement was recreation, with the majority of the property being owned by the Forest Service. The small single family residences that had been there traditionally were being bought up, demolished and replaced by mansions. Ms. Palmer and Mr. Hitchcock responded to Board member comments on future review requirements, the need for future development to meet scenic requirements from the lake and from the highway because of its location in a scenic corridor, and the adequacy of the notice.

Mr. Alling reiterated that the notice was properly given and was a non-issue. Ms. Palmer's comments regarding scenic impacts on the Bourne Meadow and potential loss of a recreation area were misplaced. There was no impact on recreation. The meadow was in a FEMA flood zone, and TRPA had it designated as SEZ. Nothing would be occurring in the meadow. This was a change from a Special Use to an Allowed Use. The application on the old Bourne property for replacement of an old house with a new house was in the Agency for almost a year and required a hearings officer action. The request to add a garage to a nearby property took almost six months. The requested amendment would have TRPA be more responsive by shortening the process time. There was no application in process.

Mr. Michael Donahoe, for the Sierra Club, suggested at first glance the request was innocuous. His concern had to do with the unintended consequences and the impact of



tearing down old homes and construction of trophy homes. This was occurring already in the Bourne Meadow and in the Logan Shoals area. This was a sensitive area and a stream environment zone, and there needed to be more oversight on this instead of less. If the Board approved this, he asked that the Board approve it only if there was a requirement for formal notice of adjacent property owners and hearings held.

Mr. Brian Grassburger, an owner of two side-by-side units in Pine Wild which faced out directly on the Bourne Meadow, commented on the purchase of his two units for retirement and his inability to comment on the residential construction going on in the meadow. There were six or ten small miscellaneous residential properties in this area, and he did not know if these all were part of an ultimate project to construct more imposing homes. Where he used to look out at a meadow, he now looked out at a paved parking lot and large home. He spoke against allowing additional development without the opportunity for public comment.

More discussion followed on the notice procedures, adding notice requirements to the Plan Area Statement policy section, the reason for the change from the original request to the request before the Board, and the requirement for staff to review and make all required threshold findings in future approvals in the area.

Mr. Gary Midkiff, for the applicant, suggested the two parcels in question had been zoned residential for 75 to 100 years. He believed that the Plan Area Statement boundary was incorrectly drawn, leaving the parcels in question in a recreation Plan Area. The compromise was to remove the Special Use requirement for notice and findings, because of the fact that a garage and small residential addition both required special hearings, special notice and findings to make the minor modifications to existing homes. This was inappropriate. The Pine Wild homes were Allowed Uses without notice being given of changes within that subdivision. The stream zone and meadow and the 100 year flood plain prevented any further development in the meadow. Development could only occur on high capability land where the existing residences were and in the timber area on the far side of the meadow, over 800 feet away from the border with Pine Wild. Because the two residential parcels up in the corner near the highway had no plan to be developed at the present time, the applicant agreed that if a proposal were to come forward he would consent to noticing the neighbors.

In making his motion, Mr. Smith suggested that the salient point was that a mistake was made when the residences were put into a recreation Plan Area. Single family homes existed in the area at the time the boundaries were drawn.

MOTION by Mr. Smith to make the findings for approval of the recommended action. The motion failed with Mr. Quinn and Mr. Slaven voting in opposition.

Mr. Marshall noted that the required vote to approve the plan amendment was four from each state. The amendment had received only three California votes in favor.

D. Amendment of the Boundary Between PAS 116 Airport and PAS 114 Bonanza to Develop Affordable Housing Project

Long Range Planner John Hitchcock presented a slide show describing the amendment which would incorporate two El Dorado County parcels now located in Plan Area 116 into Plan Area 114. The proposed amendment would facilitate a future affordable housing

project. The property was located in South Lake Tahoe off Highway 50. Currently multi-family was permitted in both Plan Areas; this was not an urban boundary line amendment. By including the two parcels in question in PAS 114, TRPA would be allowed to transfer bonus units to the parcels for affordable housing and exempt the housing from allocation requirements. The amendment was approved by the City, and staff recommended approval as proposed.

Mr. Bucky Fong, the applicant, explained his organization had been providing affordable housing in the Tahoe Basin since 1974. He asked for the Board's support of the amendment. His latest completed project was the Tahoe Senior Plaza, a 45-unit affordable senior housing project. The earlier Tahoe Pines project provided 28 units of affordable housing, and the 1974 Sierra Gardens Apartment provided 76 affordable housing units.

In making the motion, Mr. Cole suggested in the City's opinion the property in question should have been located in PAS 114 as a residential use. It was accessed by both Melba and Kyburz and did not belong in the airport Plan Area.

MOTION by Mr. Cole to make the findings necessary to approve the amendment.  
CARRIED.

MOTION by Mr. Cole to adopt the ordinance amendment as proposed.

Chairman Solaro read the ordinance by title.

CARRIED.

E. Amendment of Clean Water Act 208 Plan, Vol. I., Section VI, D.1.a  
(Timber Harvest)

Vegetation Program Manager Mike Vollmer presented the proposal to amend the 208 Water Quality Plan to reflect the changes approved by the Board for Chapter 71 of the code. The proposed language change would address vehicle use in stream environment zones for over-snow tree removal and site specific proposals for fuels treatment and early successional stage vegetation management. No significant soil disturbance or significant non-target vegetation damage was to result from use of the vehicles. More details were provided on the reason for the proposed wording in the 208 Plan.

Mr. DeLanoy questioned the timing involved in getting the equipment into the areas needing fuel treatment. He was concerned that TRPA not cause delays once the projects to reduce fuel hazards were identified. There should be a time frame for starting work.

Mr. Singlaub suggested that if the Board were going to address this specifically it should have been done in the Chapter 71 amendments, which were approved in January. The requested action here was to approve amendment of the 208 Plan; these amendments if approved would go to both states and to EPA for their approval. Staff was trying to get the amendments done today so work could get underway this summer.

No one wished to comment in the public hearing.

MOTION by Mr. Quinn to make the findings necessary to adopt the proposed amendments. CARRIED.

Agency Counsel John Marshall read the ordinance title as amended.

MOTION by Mr. Quinn to adopt the ordinance. CARRIED.

XIII. ADMINISTRATIVE MATTERS

- A. Consideration of Action on Proposed Public Safety Policy – continued to March

XIV. COMMITTEE RECOMMENDATIONS AND BOARD ACTION

- A. Operations Committee – addressed earlier in meeting
- B. Legal Committee – addressed earlier in meeting
- C. Public Outreach/Environmental Education Committee – no report provided on the noon meeting
- D. Pathway 2007 Committee – meeting to be rescheduled
- E. Shorezone Committee

Committee Chairman Larry Sevison commented on the noon meeting, advising that the draft EIR/EIS would be out some time in April. The Committee would meet again some time before the April Board meeting. Everything was moving forward.

Deputy Executive Director Jerry Wells noted that the Tahoe City Master Plan document had been distributed to Board members; they were urged to save them, since the matter would be coming up in March. He showed the Board members the Jim Hildinger photograph presented to him earlier in the day.

XV. ADJOURNMENT - The meeting adjourned at 4:05 p.m.

Respectfully submitted,

Julie D. Frame

*Due to technical difficulties with the recording system, there was no recording of the meeting from its start through agenda item IX.A.4. ( 9:35 a.m. to 10:35 a.m.). The remainder of the meeting was taped in its entirety. Anyone wishing to listen to the tapes may call for an appointment at (775) 588-4547. In addition, written documents submitted at the meeting are available for review at the TRPA office, 128 Market Street, Stateline, Nevada.*



## TAHOE REGIONAL PLANNING AGENCY

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Date: March 11, 2004

To: TRPA Governing Board

From: John Singlaub, Executive Director

Prepared By: Lyn Barnett, AICP, Chief, Project Review  
Mike Cavanaugh, Senior Planner, Project Review Division  
Kathy White, Planning Technician, Project Review Division

Subject: TRPA Application Status Report  
February 1, 2004 through February 29, 2004

### PROJECTS BY WORK ELEMENT

	<u>IN</u>	<u>OUT</u>
1000 Residential	15	20
2000 Tourist	0	0
3000 Commercial	2	0
4000 Public Service	5	5
5000 Recreation	0	0
6000 Resource Management	4	0
7000 Shorezone	2	4
8000 Administrative Projects	25	26
9000 Redevelopment	0	0
SSA Scenic Assessments	7	6
SA Site Assessments	3	0
RGN Plan Amendments	0	1
LCV-LCC-IPES	15	7
<hr/>		
TOTAL	78	69

TRPA workload as of February 29, 2004	441
Permits acknowledged February, 2004	13

**FEBRUARY PROJECT ACTIVITY HIGHLIGHTS**

- In February, staff approved the “South Y Intersection Project” in the City of South Lake Tahoe. This project involves modifications to the Intersection of Highways 50 and 89 to improve pedestrian and vehicular safety, traffic flow, air quality, and scenic quality.
- In February, staff approved the replacement of failing bin walls supporting Highway 50 near the Presbyterian Conference center in Douglas County. Work is planned to commence this summer. This project also involves the relocation of a sewer line affected by the wall location, and an improved storm water conveyance system.
- In February, TRPA staff met with the South Shore Engineers, Surveyors and Architects Group to discuss recent changes to TRPA application packets and answer questions about the installation of Best Management Practices.
- The Project Review Division continues to operate with two vacant positions, both at the Agency’s front desk. One of these positions (senior planner) is planned to be filled March 29 and the other in May or June. Other Project Review planners are fill-in for these essential positions until they are replaced and the new employees trained. This is resulting in approximately 80 hours of lost productivity per week for application review and for project records management and research.
- At the time this report was prepared there were 88 applications on-hold due to snow conditions this winter. Eighty of these applications are land capability verifications with the remainder being other application types. Most applications to TRPA require field verification of soil, land coverage, SEZ, floodplain, and water quality conditions before review can be completed, and this review cannot occur when properties are under snow.
- Fewer than 8-percent of the current application workload exceeds 120-days in review, and most of these applications are on-hold due to snow conditions. No applications exceeded 30-days for review of application completeness.
- The average time taken to review applications in February was 62.6 days. Sixty-one of the 69 applications processed in February were reviewed in less than 120-days.

**PROJECT REVIEW APPLICATIONS**

The projects listed below have exceeded 120 days in review. Absent any significant issues staff will take action during the month of March.

<u>APN</u>	<u>Applicant</u>	<u>Application Type</u>	<u>Days Complete</u>
029-341-01	Domanchuk	Administrative	122
029-341-02	Domanchuk	Administrative	122
029-341-03	Domanchuk	Administrative	122
132-240-17	Village Plaza	Commercial	125

<u>APN</u>	<u>Applicant</u>	<u>Application Type</u>	<u>Days Complete</u>
123-151-07	Yount	Admin	136
132-212-02	Hoffman	Appeal	140 *
007-020-07	McCall	Residential	143
117-130-33	Tahoe Vista	Multi-Family Subdivision	149

\* Scheduled for action at March Governing Board

The following projects have been previously reported. Staff is working to resolve significant issues and will complete the review as expeditiously as possible.

<u>APN</u>	<u>Applicant</u>	<u>Application Type</u>	<u>Days Complete</u>
023-181-38	Gayner	Commercial	202
117-071-06	Cedar Glen	Tourist	213
026-043-15	Beachcomber Inn	Shorezone	216

**LAND CAPABILITY AND IPES APPLICATIONS:**

The following are IPES and Land Capability applications that have been complete for more than 120 days due to snow conditions. These projects are scheduled for fieldwork as snow conditions permits.

<u>APN</u>	<u>Applicant</u>	<u>Application Type</u>	<u>Days Complete</u>
1418-34-401-001	Pinerock, LLC	Land Capability Verification	126
560-106-03	Lakeridge GID	Land Capability Verification	126
029-064-06	JLIN Investments	Land Capability Verification	126
1418-15-501-001	Postmistress Properties	Land Capability Verification	126
131-012-38	Steve Boyle	Land Capability Challenge	127
125-131-35	Ira Rodman	Land Capability Challenge	127
131-223-06	James & Deena Behnke	Land Capability Challenge	127
1418-34-301-003	Alvaro Pascotto	Land Capability Challenge	141
1418-15-701-009	Sweetland Trust	Land Capability Challenge	141
083-410-02	Robert & Diane Anderson	Land Capability Challenge	141
085-105-11	Witter/Reimer/Olson	Initial IPES	151
085-105-11	Witter/Reimer/Olson	IPES DOAC	151
1318-15-102-002	Gary Michelsen	Land Capability Challenge	151
117-140-06	Edgelake Beach TOA	Land Capability Verification	152
085-310-24	Joseph Lanza/Ralph	Miller IPES DOAC	152
085-310-24	Joseph Lanza/Ralph	Miller Initial IPES	152
126-263-06	Nazir & Mary Ansari	Land Capability Challenge	152
032-171-02	Eugene Buchholz	IPES DOAC	161
1418-22-501-006	George McCall	Land Capability Verification	162
1418-10-802-003	Postmistress Prop. LLC	Land Capability Challenge	118
018-291-10	Charles B. Ebright	IPES Alt. Bldg.	215
018-291-10	Charles B. Ebright	IPES DOAC	215
1418-15-511-003	Universal Pacific Invest.	IPES Alt. Bldg.	215

Table 1

### 2004 TRPA Application Trend Predicted and Actual Application Submittals Based on Mean Deviations from a Six-Year Mean

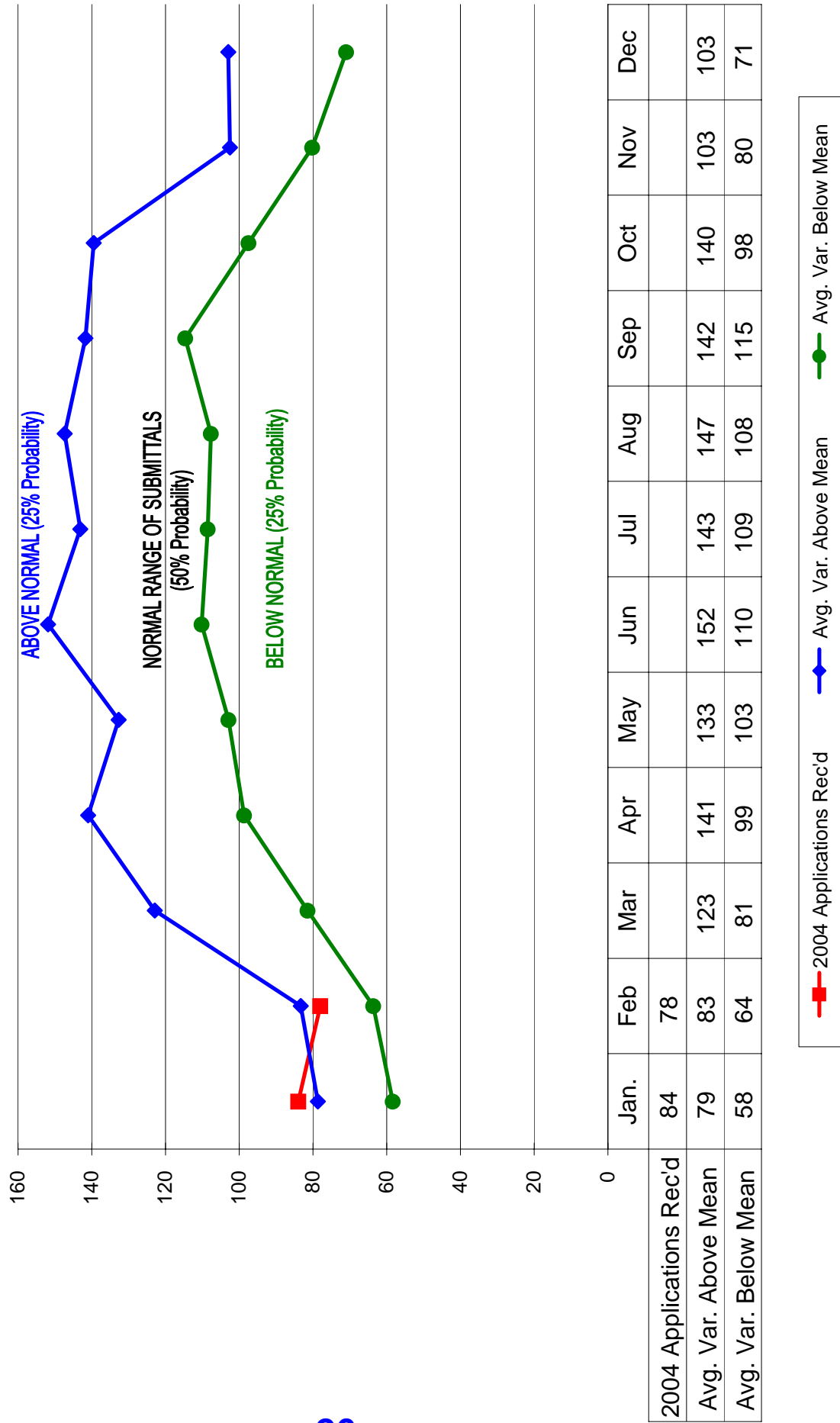




Table 2

TRPA Project Application Workload - 18-Month Period

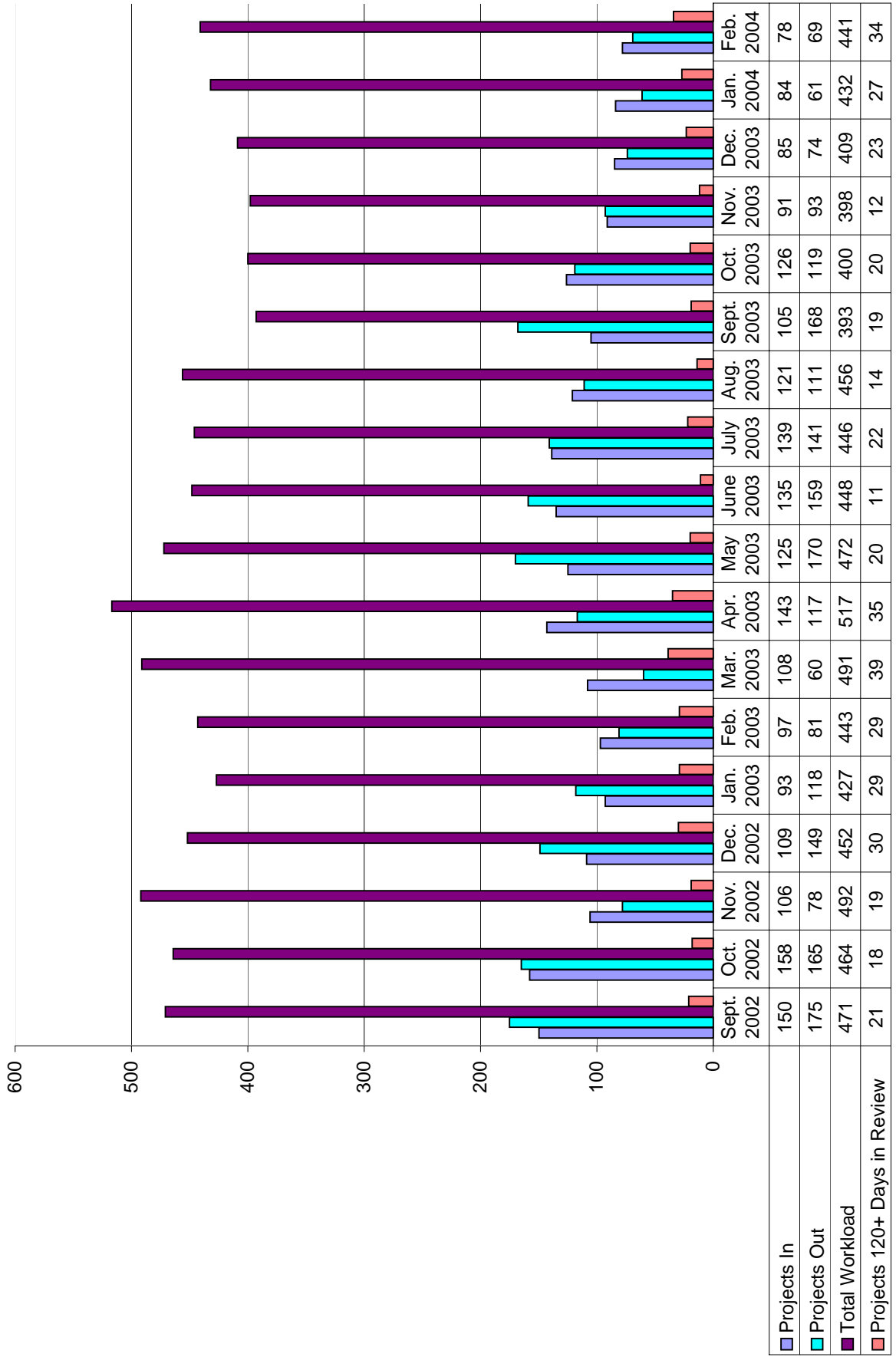
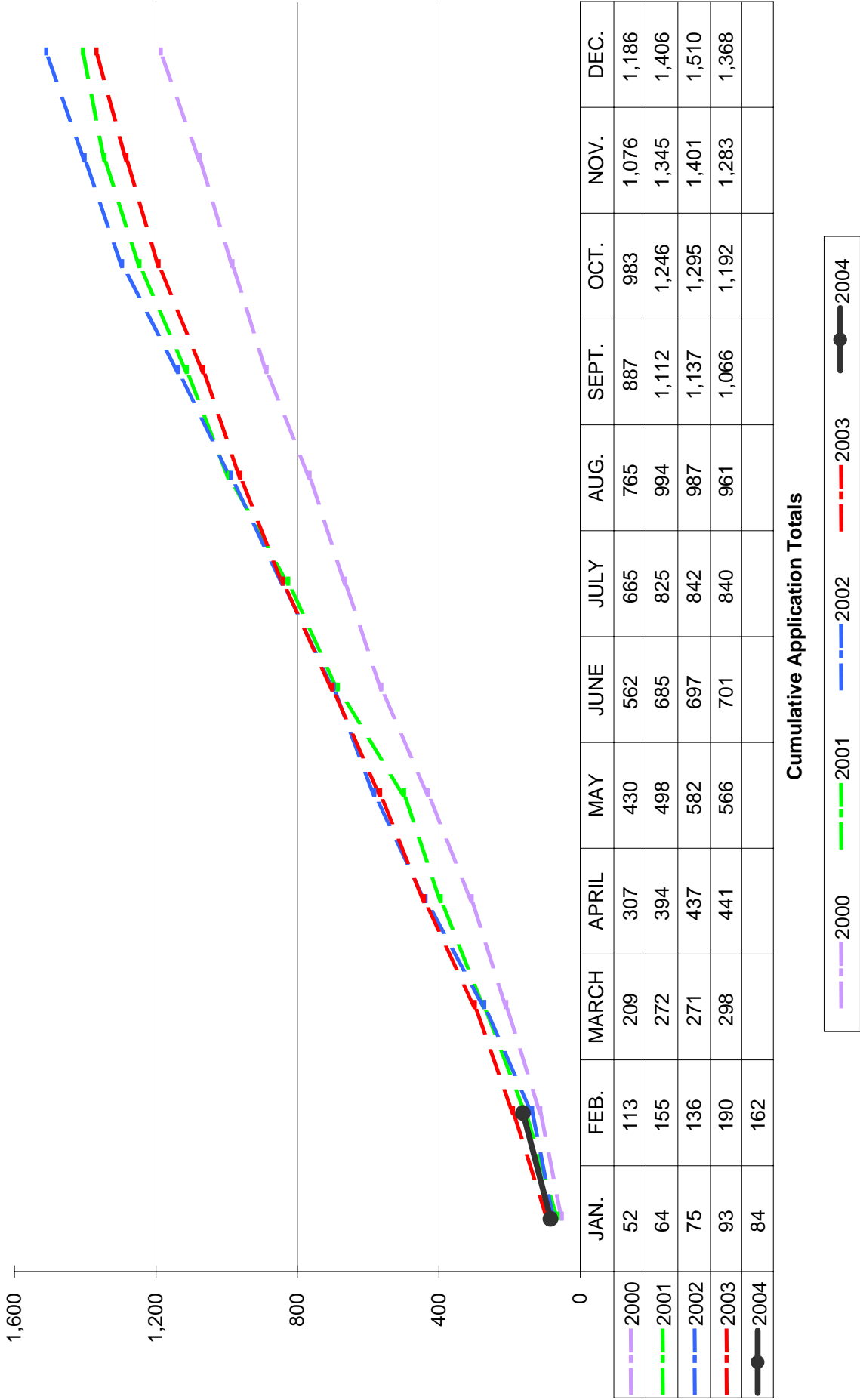


Table 3

**Five-Year Trend in TRPA Application Submittals  
Calendar Years 2000, 2001, 2002, 2003 and 2004**



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Date: March 15, 2004  
To: TRPA Governing Board  
From: John O. Singlaub, Executive Director  
Subject: Threshold Conflict Resolution Strategies Relative to EIP and Other Projects

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## Introduction

Several Governing Board members at the February Board meeting expressed an interest in continuing discussions on strategies to deal with Environmental Improvement Program (EIP) and other public projects that involve conflicts between two or more environmental thresholds. Some members of the Board felt that if an EIP or other public project significantly enhanced one threshold while possibly degrading another, that the Board should have the discretion to approve the project. Other Board members expressed concern that this approach could cause a negative cumulative impact on those degraded thresholds, resulting in the Region's inability to ultimately attain certain thresholds. This memorandum provides my recommendation on a strategy to deal with this issue.

## Background

The Tahoe Regional Planning Compact requires that TRPA adopt environmental thresholds for the Lake Tahoe Basin. These thresholds, as adopted by the TRPA Governing Board in 1983, set the desired existing or future conditions for nine environmental threshold categories. These include water quality, air quality, soil conservation, fish habitat, vegetation, wildlife habitat, noise, scenic resources and recreation. Each of these thresholds includes specific environmental standards or indicators that provide a means to measure our progress towards threshold attainment. The Compact also requires that TRPA adopt a regional plan and implementing ordinances aimed at achieving these adopted thresholds.

Article V (g) of the Compact requires that TRPA adopt ordinances prescribing specific written findings that the agency must make prior to approving any project in the region. The Compact specifically requires that these findings "shall insure that the project under review will not adversely affect implementation of the regional plan and will not cause the adopted environmental threshold carrying capacities of the region to be exceeded."

Consistent with the Compact, Chapter 6 of the TRPA Code of Ordinances contains several findings that must be made prior to approving any project. Included in these is a finding that states, "The project will not cause the environmental threshold carrying capacities to be exceeded." In addition, Chapter 6 of the Code (Section 6.3.B) also requires that the basis for making these findings include confirmation that any threshold resource capacity utilized by the project is within the remaining capacity and that the project will not prevent attainment of any adopted target date.

### Discussion

This issue was discussed previously at the November 2003 Governing Board meeting where staff conducted a workshop with the Board on the current EIP project review process relative to potential conflicts with the environmental thresholds. At the workshop, staff presented three strategies that the Agency currently uses to resolve these types of conflicts. The first, and most desirable, strategy is to identify project design alternatives that avoid the threshold conflict, eliminating the need for mitigation. This should include pre-design work with TRPA staff to examine alternative ways to achieve project objectives before detailed engineering work is performed. The second strategy, if avoidance is not possible, is to identify appropriate mitigation that reduces the impact to a less than significant level. The third, and typically least desirable strategy is either to change the threshold standard itself to remove the conflict or not proceed with the project. It was also pointed out at the workshop that with the possible exception of two EIP projects involving bicycle trails (NTPUD Bike Trail and TCPUD Sequoia Bike Trail projects), staff has been successful in permitting all other EIP projects to date under the first two strategies outlined above.

Since discussing this issue at the November workshop and at the January Governing Board meeting, staff has worked diligently with the applicants on the two above-referenced projects to find a way to move them forward through project redesign or identifying appropriate mitigation. Efforts to date appear to be successful and it is anticipated that these two projects will be able to be approved without having to amend or degrade any of the thresholds.

### Conclusion

Given the Compact and Regional Plan requirements outlined above, it is not legally possible for TRPA to approve a project that enhances one threshold while at the same time degrades another. The only way this could occur would be for the Governing Board to adopt a change to the threshold itself so that there is no longer a threshold conflict.

The current strategy applied by staff is consistent with the Compact and Regional Plan requirements and, as stated above, has been successfully applied to all EIP projects to date without the need for a threshold amendment. In addition, during the Pathway 2007 process, we can look at ways to better integrate the thresholds and can propose alternatives to the Governing Board to resolve potential conflicts. If the Board wants staff to undertake such a process now with the existing thresholds, it would require

Threshold Conflict Resolution

March 15, 2004

Page 3

significant staff time and public input opportunities. My preference would be to keep staff's efforts focused on Pathway 2007.

Given the wide array of EIP projects that have been successfully permitted, I do not see a reason at this time to change the current strategy for reviewing these types of projects. I do agree, however, that should we encounter a situation in the review of any future EIP or public projects where a conflict between thresholds cannot be overcome with the current strategy, I will forward those projects to the Governing Board for discussion and resolution. Therefore, I recommend continuation of the current strategy and no Board action at this time.



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## TAHOE REGIONAL PLANNING AGENCY STAFF SUMMARY

Project Name: The Hiroko Nakazato Trust

Application Type: Shorezone, Pier Expansion

Applicant: Hiroko Nakazato Trust, Owner,

Applicant's Representative: Kevin Agan, Agan Consulting Corporation

Agency Planner: Brenda Hunt, TRPA Project Review Division

Location: 4798 North Lake Boulevard, Placer County, CA

Assessor's Parcel Number / File Number: 115-060-09/20021274

Staff Recommendation: Staff recommends approval of the proposed project based on this staff summary and evidence contained in the project record. The required actions are outlined in Section F of this staff summary.

Project Description: The applicant is proposing to expand an existing 56-foot pier. The proposed pier expansion will meet the TRPA five-foot setback requirements for existing structures. The pier is proposed to extend approximately 161 feet from the highwater line to a lakebed Elevation 6219 LTD, an expansion of 105-feet in length. The pier is proposed to be six feet wide to the pierhead and have a single-piling design. The pierhead is proposed to be 10-feet by 30-feet, and be supported by double-pilings. The pierhead shall contain a 6000-pound low-level boatlift and a 3-foot by 30-foot adjustable catwalk. No pilings or railings are proposed to extend above the pier deck. Low-level turtle type lights shall be used to illuminate the pier deck only. The pier will be dark brown in color to match the shoreline backdrop. Please refer to Exhibits A, B, and C for site and design plans.

Site Description: The lake-bottom substrate in the project area has been mapped and verified as prime fish habitat, feeding and escape cover, and is composed of cobbles and rocks. The upland project area is 6,268-square feet and contains a single-family dwelling. A residential addition/modification was previously approved by TRPA in 1991. The shorezone is developed with an existing path, stairway access, and a 56-foot pier. The project area is composed of Land Capability Districts 4 (JwE), and backshore. The backshore boundary has been verified by TRPA. The backshore area slopes over 30% toward the shore of Lake Tahoe. The residence is located in the shoreland and is subject to the Shoreland Scenic Ordinances. The project is visible from Scenic Shoreline Travel Unit 18 (Cedar Flat) and Scenic Roadway Unit 17 (Cedar Flat). Neither of these units are in attainment with the Scenic Threshold. The proposed pier extension, however, is not visible from the highway due to the steep slope and residential structures. Please refer to Exhibit A - site plan.

Issues: This project involves the expansion of an existing non-conforming pier structure. The main point of non-conformance is that the structure is located in prime fish habitat, and therefore, requires Governing Board review in accordance with Chapter 4, Appendix A, of the TRPA Code of Ordinances. The primary issues associated with this project are prime fish habitat, scenic quality, and the re-mapping of a Placer County paper road parcel formerly known as Bay Street.

- A. Fish Habitat: The project is located in prime fish feeding and escape cover habitat. As a condition of approval, the applicant is required to submit a fish habitat restoration plan. The proposed pier will have 10 additional pilings, therefore, the project will be required to restore six square feet of prime fish habitat either on-site or at another TRPA approved location.
- B. Scenic Quality: The proposed project is visible from Scenic Shoreline Unit 18, Cedar Flat, which is currently not in attainment with the established Scenic Threshold. TRPA staff has worked with the applicant's representative to develop a scenic mitigation package that is consistent with the recommendations for improving the scenic quality identified in the Scenic Quality Improvement Program (SQIP) and the Shoreland Scenic Ordinances.

TRPA's 2001 Scenic Threshold Evaluation highlights that additional man-made development within this Scenic Unit, including new and remodeled residences, pier extensions and boatlifts, caused this unit to fall from a score of 8.0 to 7.5 during the 1996 evaluation. This score did not change during the 2001 evaluation. In an effort to better maintain the scenic quality within the Shoreland, the Governing Board adopted the Scenic Shoreland Ordinance in November 2002. This ordinance has a component for reviewing shorezone projects.

This project was reviewed under Level 3 of the Shoreland Scenic Ordinances, TRPA Code Section 30.15.C (3), which requires the shoreland project area to have or exceed a contrast rating score of 21. The application was received prior to the Shoreland Ordinance effective date; therefore, an in-house Baseline Scenic Assessment was completed concurrently with the project. The composite shoreland project area received a 23 for a contrast rating score. The additional visual mass created by the proposed pier extension totals 244.5-square feet. This was calculated by adding the visual mass of the proposed pier extension and the standard boat for a 6000-pound boatlift, and providing the applicant credit for the visual mass of the existing pier. The applicant is required to utilize the Transfer of Scenic Mitigation Credits (Interim System), TRPA Code Section 30.15.H. The pier is in a Shoreline Travel Route that is currently not in attainment, and the additional visual mass must be mitigated at a ratio of 1.5:1. Therefore, as a condition of approval, the applicants must reduce the visible mass within the shoreland, or the Shoreland Scenic Unit, by 367-square feet.



The applicant and his representatives have chosen to reduce visible mass in the upland by planting vegetation to help screen the existing home. The planting of additional trees and shrubs will focus on the lakefront facade and perimeter of the existing residence and the vegetation used will be appropriate for the backshore type and conditions. The site of the removed stairway from the pier to the shore will be stabilized and restored to blend with the natural appearance of the backshore. The applicant's representatives are working with professional engineers and landscapers and will be submitting an integrated design plan that will provide the screening required, stabilize the backshore area, and provide the proper water quality/erosion control measures. The applicant has indicated that the plans shall be available prior to the Governing Board Hearing.

Staff has requested two visual simulations be prepared for this project to address the Governing Board's recent request that visual simulations be completed on all shorezone projects. These simulations shall depict the required upland screening from a view perpendicular to the project and at a 45-degree angle for the proposed pier (worst case scenario). The applicant's representatives have stated that the vegetation depicted will be a maximum of five years growth based on site conditions. The revised visual simulation will be available prior to and at the Governing Board Hearing. The draft permit is conditioned to require the permittee provide an annual monitoring report to TRPA to ensure the project is implemented as proposed (See Draft Permit Condition, Item 3.D).

Staff Analysis:

- A. Environmental Documentation: The applicant's representative and TRPA staff have completed the Initial Environmental Checklist (IEC), a baseline scenic assessment, and a visual simulation in order to assess the potential environmental impacts of the project. The design of the project was revised post submission of the visual simulation, therefore, the original visual simulation is no longer a precise depiction of the project, but is still an important part of the project record. Two visual simulations that accurately depict the proposed project are in the process of being completed, but were not completed at the time this report was written. These visual simulations shall be available prior to and at the Governing Board Hearing on March 24, 2004. 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 baseline scenic assessment contrast rating score sheet will be made available at the Governing Board hearing and at TRPA prior to the hearing.
- B. Plan Area Statement: The project is located within Plan Area Statement 16B – Carnelian Bay Subdivision. The Land Use Classification is Residential, and the Management Strategy is Mitigation. The proposed use (pier) is an allowable accessory structure in the Plan Area Statement and single-family dwellings are an allowed use.

- C. Land Coverage: No land coverage changes are proposed in relation to the extension of the pier. However, the existing and proposed land coverage are not consistent with the previous 1991 addition/modification permit. The draft permit has been conditioned to ensure that prior to acknowledgement, the land coverage calculations will be revised to reflect existing on-site conditions that are consistent with the previous approvals. Any minor changes in land coverage shall be reviewed and approved by TRPA staff at the time of acknowledgement, and shall be consistent with all relevant sections of the TRPA Code of Ordinances. (See Draft Permit Condition 3.A(3)).

The applicant will be required to mitigate the existing excess land coverage in accordance with Chapter 20 of the TRPA Code of Ordinances. (See Draft Condition 3.I)

- D. Shorezone Tolerance District: The subject parcel is located within Shorezone Tolerance District 4. Projects within Shorezone Tolerance District 4 must ensure stabilization and cause the least environmental impact to the backshore. Permitted development or continued use may be conditioned upon installation and maintenance of vegetation to stabilized backshore areas and protect existing cliffs from accelerated erosion (See Draft Permit Condition 3.B). Pedestrian access to the backshore is limited to stabilized access ways. The project, as conditioned, complies with the shorezone tolerance district development standards.
- E. Required Findings: The following is a list of the required findings as set forth in Chapters 6, 50, 52, 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 project area contains a single-family dwelling, which is listed in the Carnelian Subdivision Plan Area Statement as an allowed use. The proposed project involves the extension of an allowed accessory structure (pier) and is consistent with the Land Use Element of the Regional Plan. Surrounding land uses consist of residential properties with accessory shorezone development consisting of piers and boathouses. The proposed project will not alter any land use patterns.
- (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. The project area received a contrast rating score of 23, exceeding the required 21 for a Level Three review in Chapter 30 of the TRPA Code of Ordinances. The project triggers the Transfer of Scenic Mitigation Credits Interim System (Section 30.15.H) and the draft permit is conditioned to ensure an additional 367 square feet of visual mass will be screened under these provisions. The proposed colors and design are consistent with the TRPA Design Review Guidelines. The draft permit is conditioned to ensure the applicant provides a revised landscaping plan that will mitigate adverse scenic impacts. This project will not result in the obstruction or degradation of any TRPA identified scenic vistas or views open to the public. Staff conducted a Tahoe Yellow Cress (*Rorippa subumbellata*) survey on September 12, 2003. No plants were found. The draft permit is conditioned to ensure that a Tahoe Yellow Cress Survey is conducted again if construction is slated to commence after the plants' growing season begins. The draft permit is conditioned to ensure the applicant submit a prime fish habitat restoration plan that focuses on the restoration of fish habitat associated with the removal of the existing pier (6-square feet). There are no known special interest animal species or cultural resources within the project area.
  - (4) Recreation: This project does not involve any public recreation facilities or uses. The proposed pier will be similar in length to adjacent existing piers and will not extend beyond the TRPA pierhead line or lakebed Elevation 6219 LTD. By remaining consistent with existing neighboring development, the proposed pier will not adversely affect recreational boating or top-line angling. The proposed pier will be at least 90-percent open, which may allow small craft to pass under it depending on Lake water levels.
  - (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.

- 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. 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.

The proposed project will not adversely impact littoral processes because the project involves a structure that is at least 90-percent open. The proposed project is located in an area mapped and verified as prime fish habitat (feeding and escape cover) and will not adversely impact fish spawning. The existing backshore is in a partially unstable condition. The draft permit has been conditioned to ensure the backshore is stabilized (See Section D – Shorezone Tolerance District). The applicants are working with professional engineers and landscapers on an integrated design that will provide the required visual screening, stabilize the backshore area, and provide the proper water quality/erosion control measures. 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 a single-family dwelling that provides sufficient access, parking and sanitation facilities to accommodate the project. The pier will only be used by the property owners and their guests.

- 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 and boathouses) in the vicinity. The proposed pier will not extend beyond the TRPA pierhead line, or lakebed Elevation 6219 Lake Tahoe Datum, whichever is more restrictive.

- 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. No containers of fuel, paint, or other hazardous materials may be stored on the pier.

- 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 construction of the pier extension will be accomplished from the lake by barge. No vehicular access shall be authorized in the backshore (See Draft Permit Condition 9).

- 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 lakebed Elevation 6219 LTD or TRPA pierhead line whichever is more restrictive. The U.S. Army Corps of Engineers must also review this project for navigational safety. 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. 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. California State Lands and Lahontan have issued their approvals. California Fish and Game and the United States Army Corp of Engineers intend to issue their permits pending TRPA project approval. No agencies indicated any concerns or objections to the proposed project.

4. 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 except for location in prime fish habitat. TRPA staff has inspected the subject parcel and has determined that the proposed project will not adversely impact fisheries if the mitigation requirements are met as conditioned in the draft permit (See Draft Permit Condition 3.E). The proposed pier project is located within Scenic Shoreline Unit 18 – Cedar Flat, which is not in attainment with TRPA scenic quality thresholds. The applicants are proposing a scenic mitigation package that should result in an incremental improvement in the scenic quality of the project area. There is evidence of limited erosion in the backshore. The draft permit has been conditioned to ensure the permittee submits a landscaping and BMP plan that will provide the required backshore stabilization and scenic mitigation. These plans will improve the water quality, soil stability and scenic quality of the project area. The project will not cause additional degradation of any of the other environmental thresholds (Finding 1.b above).

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

All of the required temporary and permanent BMPs will be installed as a condition of approval (See Draft Permit Condition 3.B)

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

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

surroundings. Conditions of approval will ensure that earth tone colors are used on the pier extension and the specific colors must be reviewed and approved by TRPA prior to acknowledgement of the permit (See Draft Permit Condition 3.A(7)). If a wood decking is used, the applicant will be required to stain the decking prior to attaching it to the pier frame (See Draft Permit Condition 5).

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

The existing pier remains serviceable.

- F. Required Actions: Agency staff recommends that the Governing Board approve the project by making the following motions based on this staff summary and evidence contained in the record:
- I. A motion based on this staff summary, for the findings contained in Section E above, and a finding of no significant environmental effect for the project.
  - II. A motion to approve the project based on this staff summary subject to the conditions contained in the attached draft permit.

#### List of Exhibits

- A: Site Plan  
B: Pier Elevations  
C: Pier and Access Details



**TAHOE REGIONAL PLANNING AGENCY**

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Email: trpa@trpa.org

DRAFT PERMIT

PROJECT DESCRIPTION: Existing Pier Expansion      APN: 115-060-009

PERMITTEE: The Hiroko Nakazato Trust      FILE NO. 20021274

COUNTY/LOCATION: 4798 North Lake Boulevard, Placer County

Having made the findings required by Agency ordinances and rules, the TRPA Governing Board approved the project on March 24, 2004, subject to the standard conditions of approval attached hereto (Attachment S) and the special conditions found in this permit.

This permit shall expire on March 24, 2007, 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 CONSTRUCTION OR EXCAVATION SHALL COMMENCE UNTIL THE PERMITTEE OBTAINS PERMITS FROM ALL OTHER RELEVANT AGENCIES WITH JURISDICTION ON LAKE TAHOE. THESE PERMITS AND THE TRPA PERMIT ARE INDEPENDENT OF EACH OTHER AND MAY HAVE DIFFERENT EXPIRATION DATES AND RULES REGARDING EXTENSIONS. NO CONSTRUCTION OR EXCAVATION SHALL COMMENCE UNTIL ALL PRE-CONSTRUCTION CONDITIONS OF APPROVAL ARE SATISFIED AS EVIDENCED BY TRPA'S ACKNOWLEDGEMENT OF THIS PERMIT. IN ADDITION, NO CONSTRUCTION OR EXCAVATION SHALL COMMENCE UNTIL TRPA RECEIVES A COPY OF THIS PERMIT UPON WHICH THE PERMITTEE HAVE 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

D-R-A-F-T

APN: 115-060-009  
FILE NO. 20021274

Additional Filing Fee<sup>(1)</sup> Amount \_\_\_\_\_ Paid \_\_\_\_\_ Receipt No. \_\_\_\_\_  
Excess Coverage Mitigation Fee<sup>(2)</sup> Amount \_\_\_\_\_ Paid \_\_\_\_\_ Receipt No. \_\_\_\_\_  
Shorezone Mitigation Fee<sup>(3)</sup> Amount \$3,650 Paid \_\_\_\_\_ Receipt No. \_\_\_\_\_  
BMP Security Posted<sup>(4)</sup> Amount \$ \_\_\_\_\_ Posted \_\_\_\_\_ Receipt No. \_\_\_\_\_ Type \_\_\_\_\_  
Landscape Security Posted<sup>(5)</sup> Amount \$ \_\_\_\_\_ Posted \_\_\_\_\_ Receipt No. \_\_\_\_\_ Type \_\_\_\_\_  
Security Administrative Fee<sup>(6)</sup> Amount \$ \_\_\_\_\_ Paid \_\_\_\_\_ Receipt No. \_\_\_\_\_

Notes:

- (1) See Special Condition 3.H below.
- (2) Amount to be determined. See Special Condition 3.I, below.
- (3) See Special Condition 3.J, below.
- (4) Amount to be determined. See Special Condition 3.K, below.
- (5) Amount to be determined. See Special Condition 3.L, below.
- (6) \$139 if cash security is posted, or \$72 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 extension and expansion of an existing single-use pier. The pier will be extended approximately 105 additional feet. The total pier shall not exceed 105-feet in length (as measured from the highwater line), and shall not exceed the TRPA Pierhead line or lakebed Elevation 6219 Lake Tahoe Datum (LTD), whichever is more restrictive. The pier shall meet the 5-foot setback requirements for existing structures. The pier deck shall be supported by single-pilings and be no higher than Elevation 6232 LTD and no greater than six feet in width. The pierhead shall measure 30-feet by 10 feet. An additional 30-feet by 3-feet adjustable catwalk and one 6000-pound low-level boatlift will be attached to the pierhead. The boatlift forks shall not exceed 10-feet in width. Low-level turtle type lights shall be used to illuminate the pier deck only. This permit authorizes no railings, pilings, or other structures above the pier deck. The small unauthorized stairwell and railing that connects the pier to the shorezone shall be removed.

2. The Standard Conditions of Approval listed in Attachment S shall apply to this project.
3. Prior to permit acknowledgement, the following conditions of approval must be satisfied.
  - A. The site plan shall be revised to include:
    - (1) The setback lines shall be revised and shall be drawn in the manner described in TRPA Code Section 54.4.A (5) using the five feet setback for existing structures.
    - (2) The Backshore Boundary shall be related to be depicted inclusive of the 10-foot setback as described in TRPA Code Section 55.2.
    - (3) The following revised land coverage calculations:
      - (a) Allowable land coverage for each land capability district including the revised backshore area.
      - (b) The existing and proposed land coverage for each land capability district and coverage type, including the revised backshore areas.
      - (c) The excess land coverage in each land capability district including the backshore area.
      - (d) Any previously mitigated excess land coverage.
      - (e) Any existing banked land coverage (if applicable).
      - (f) Any proposed use of banked land coverage (if applicable).
  - Please note:** These revised coverage calculations must be consistent with the previous Addition/Modification permit and plans approved in 1991. Any minor changes to land coverage shall be reviewed and approved by TRPA prior to acknowledgement and shall be consistent with all relevant sections of the TRPA Code of Ordinances.
  - (4) Notes and details for double filter fabric fencing located down slope of the proposed replanting areas. *Please Note: Straw bales are no longer preferred for temporary erosion control and straw is no longer a recommended mulch material in the Lake Tahoe Basin. The use of straw has contributed to the spread of noxious weeds throughout the basin. The use of alternatives to straw bales, such as pine needle bales, filter fabric, coir logs and pine needle or wood mulches for erosion control purposes is strongly encouraged.*
  - (5) Notes and details for vegetation protective fencing around the entire construction site located in the backshore. Where a tree exists within the construction area, the vegetation protection fencing must be placed beyond the drip-line of the outermost branches.
  - (6) All required permanent Best Management Practices (BMP's) for the entire project area.

- (7) A note stating the pier pilings, structural steel, and catwalk shall all be a flat dark brown, black, or a dark color consistent with the project simulation and Section 53.10.A of the TRPA Code of Ordinances. The decking shall be either wood or a 'trex' type and shall be dark brown in color to blend in with the shoreline backdrop. Color samples shall be submitted to TRPA for review and approval.
  - (8) TRPA approved low-level lighting (turtle-type) details for the pier as per Standard 54.4 Guideline 6 in the TRPA Design Review Guidelines.
- B. A Best Management Practices Plan shall be submitted for TRPA review and approval. The plan shall include, but not be limited to, all permanent erosion control measures and infiltration calculations required to bring the existing residence into conformance with Chapter 25 of the TRPA Code of Ordinances, and the planting design, methodology and maintenance requirements for stabilization of any unstable backshore areas in accordance with Section 53.8.B & 55.6 of the TRPA Code of Ordinances.
- C. The landscaping plan shall be revised to include the screening of an additional 367-square foot of the upland structure for scenic mitigation. Vegetation shall be planted to screen the residence to mitigate the visual mass of the proposed pier. The final landscaping plans shall be submitted for TRPA review and approval and include:
- (1) Species list
  - (2) Size of plants at planting (height and aerial extent),
  - (3) Size of plants at five years growth (height and aerial extent),
  - (4) Planting details and specifications,
  - (5) An irrigation and fertilizer management plan in accordance with the standards required in Sections 30.7 and 81.7 of the TRPA Code of Ordinances.
  - (6) Notes stating that all vegetation shall be consistent with the requirements of Chapter 30, Chapter 55.6, and Chapter 74.2 of the TRPA Code of Ordinances, including the specification for sizing and species of plants.
  - (7) The proposed plants shall be from the TRPA approved plant lists as described in Table 1 of the Home Landscaping Guide for Lake Tahoe and Vicinity.

An integrated BMP, backshore restoration, and scenic mitigation implementation and maintenance plan, may be acceptable if all required elements are included.

- D. In conjunction with the landscaping plan and prior to the return of the posted security, the permittee shall submit a landscape monitoring plan which requires that annual reports be submitted to TRPA Project Review Division staff by September 1 each year until TRPA determines that the proposed landscaping has been established according to the approved plans. The monitoring plan

shall include post-construction photos demonstrating any resultant impacts to scenic quality as viewed from 300 feet from shore looking landward and to lake bottom conditions as viewed from the subject parcel. Any landscaping that fails shall be re-planted as directed by TRPA until planting succeeds.

- E. A fish habitat restoration plan shall be submitted for TRPA review and approval that details the process for rehabilitating six square feet of fish habitat either on the subject property or within the shorezone of Lake Tahoe.
- F. The revised scenic simulation with a wire frame of the 367-square feet of mitigation to be completed to mitigate for the pier extension. The scenic simulation shall depict vegetation at a maximum of five years growth and shall be consistent with the approved landscaping plan.
- G. The permittee shall submit a construction schedule. This schedule shall include dates for the following items:
  - (1) Installation of temporary erosion control structures
  - (2) Construction on the proposed pier
  - (3) Installation of all permanent erosion control measures
  - (4) Installation of the landscaping for backshore stabilization and screening mitigation (367-square feet)
  - (5) Completion of construction
- H. The permittee shall submit an additional filing fee of \$525. This fee is the difference between a staff level review and a Governing Board level review based on the filing fee schedule in place at the time the application was received.
- I. The permittee shall mitigate a square footage amount (to be determined) of excess land coverage located on this property by submitting an excess coverage mitigation fee, or by removing coverage within Hydrologic Transfer Area 9, Agate Bay. This amount is based on the previous unmitigated excess coverage.

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

- (1) Estimated project construction cost multiplied by the appropriate fee percentage factor 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:

- (2) Coverage reduction square footage (as determined by formula (1) above multiplied by the coverage mitigation cost fee of \$6.50 per square

foot for California projects. 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.

- J. The permittee shall submit a pier mitigation fee of \$3,650 for the construction of 105 additional feet of pier (assessed at \$30/linear foot) and one low-level boatlift (assessed at \$500).
  - K. The BMP security required under Standard Condition A.3 of Attachment S shall be determined upon the permittee's submittal of a required Best Management Practices Plan (per Condition 3.B above to include any erosion control vegetation and structures) and related cost estimate for implementation. In no case shall the security be less than \$5,000. Please see Attachment J, Security Procedures for appropriate methods to post a security and for a calculation of the required Security Administrative Fee.
  - L. An additionally security shall be required to ensure the success of the scenic mitigation requirements. This security shall total 110-percent of the cost of the landscaping plan implementation. The security shall be determined upon on the permittee's submittal of a required Landscaping Plan and related cost estimate for implementation. In no case shall the security be less than \$5,000. Please see Attachment J, Security Procedures for appropriate methods to post a security and for a calculation of the required Security Administrative Fee.
  - M. The permittee shall submit 3 sets of final construction drawings and site plans to TRPA.
- 4. Prior to the commencement of construction, a Tahoe Yellow Cress survey shall be conducted. This survey shall be conducted when the plant is visible, between June 15 and September 30. If any Tahoe Yellow Cress plants are located within the project area, a site-specific management plan shall be submitted for TRPA review and approval. The management plan shall include but not be limited to the following: 1) methods used during construction for protection of the species and the habitat and also protection measures to be utilized long term. Construction methods must include vegetation fencing to prevent vehicular disturbance, pedestrian disturbance and storage of equipment on the beach. 2) The management plan shall also provide permission to TRPA and the other affected agencies in the Tahoe Basin to conduct yearly inspections of the property to evaluate the population's viability. 3) The property owner may volunteer to take part in the TYC Stewardship program once it has been established.
  - 5. 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. If wood decking is to be used on the pier extension, the permittee shall stain the decking prior to attaching it to the pier frame.
  - 6. Disturbance of the lakebed materials shall be kept to the minimum necessary for project construction.

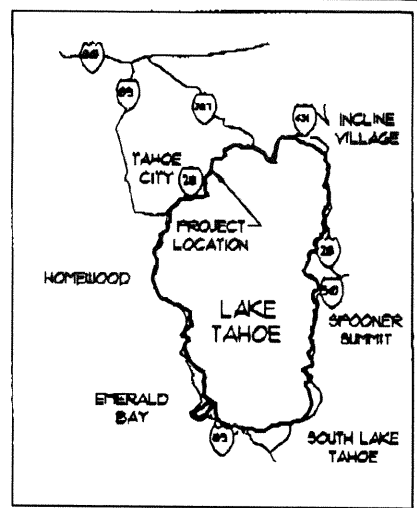
7. Best practical control technology shall be employed to prevent earthen materials to be resuspended as a result of pier construction and from being transported to adjacent lake waters. At the TRPA inspector's discretion, the permittee shall install caissons while pile driving to prevent resuspension of lakebed sediments during construction.
8. 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.
9. All pier construction access shall be from Lake Tahoe via barge. Vehicular access to the shoreline is prohibited. In addition, storage of materials and equipment within the backshore is prohibited.
10. No containers of fuel, paint, or other hazardous materials may be stored on the pier.
11. All existing trees and shrubs on this parcel between the lake and the residence were used to calculate the baseline contrast rating score and shall be considered as scenic mitigation. These trees and shrubs shall not be removed or trimmed without prior written TRPA approval. Any such removal or trimming shall constitute a violation of project approval.
12. By acceptance of this permit, the permittee agrees that all scenic design and mitigation measures outlined in the project site plans, revised visual simulation, and the revisions made to the best management practices and landscaping plan are hereby included as conditions of project approval and will be implemented as such.
13. By acceptance of this permit, the permittee agrees that the allowable visible area for all future development on the shoreland of the subject parcel shall maintain the 367-square feet of mitigation to account for the pier extension.

END OF SPECIAL CONDITIONS



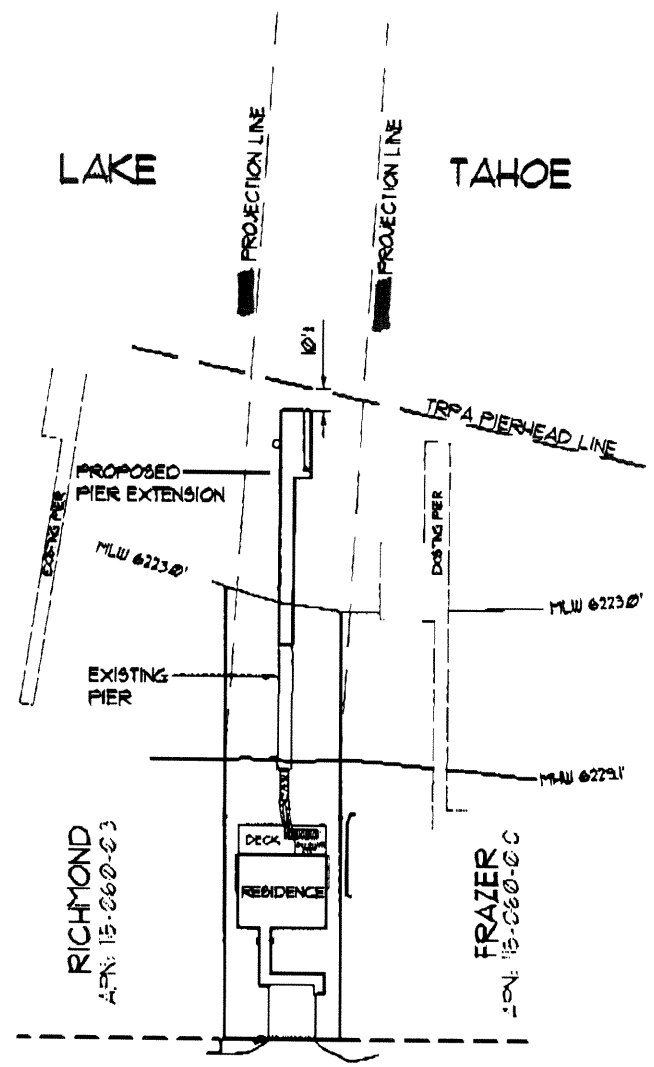
EXHIBIT A

SCALE: 1"=80'  
[North Arrow]



VICINITY MAP  
NO SCALE

NOTE:  
THIS PROJECT INVOLVES EXTENDING THE EXISTING PIER IN CONFORMANCE WITH CURRENT AGENCY CRITERIA, INCLUSIVE OF INSTALLING A BOATLIFT.



NORTH LAKE BOULEVARD  
(STATE HIGHWAY 28)

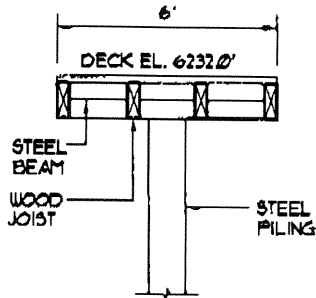
NAKAZATO PIER MODIFICATION/BOATLIFT ADDITION  
4798 NORTH LAKE BOULEVARD, CARNELIAN BAY, CALIFORNIA  
PLACER COUNTY APN: 115-060-009

THIS DRAWING IS FOR PERMIT EXHIBIT PURPOSES ONLY

**AGAN CONSULTING CORPORATION**  
LAND & SHOREZONE CONSULTANTS  
POST OFFICE BOX 9180 INCLINE VILLAGE NEVADA 89452-9180  
937 TAHOE BLVD., SUITE 120 INCLINE VILLAGE NEVADA 89451  
TELEPHONE (775) 832 9300 OR (530) 581 1640 FACSIMILE (775) 832 9301

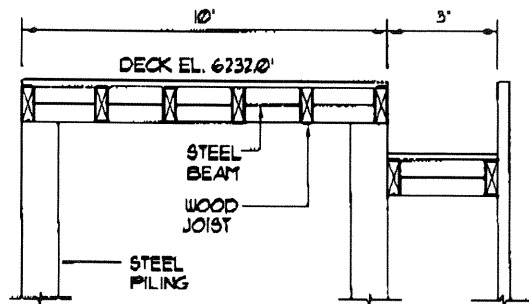
MARCH 2004  
SHEET 1 OF 3

EXHIBIT B



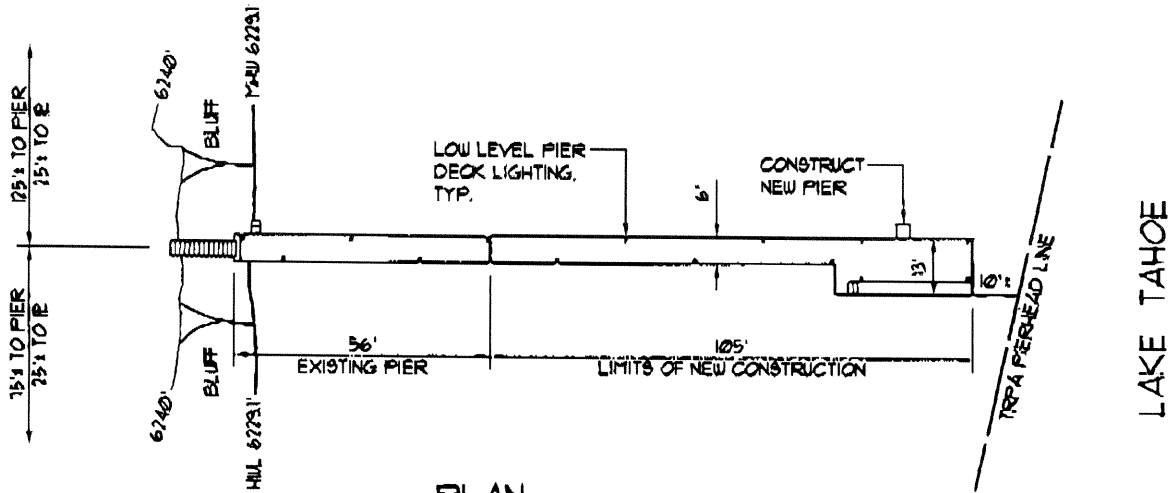
TYPICAL PIER WALKWAY

NO SCALE

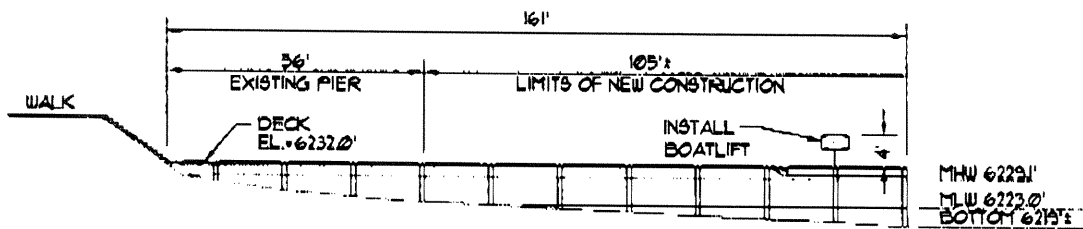


TYPICAL PIERHEAD SECTION

NO SCALE



PLAN: SCALE 1"=40'



PROFILE: SCALE 1"=40'

**NAKAZATO PIER MODIFICATION/BOATLIFT ADDITION**  
 4798 NORTH LAKE BOULEVARD, CARNELIAN BAY, CALIFORNIA  
 PLACER COUNTY APN: 115-060-009

THIS DRAWING IS  
 FOR PERMIT EXHIBIT  
 PURPOSES ONLY

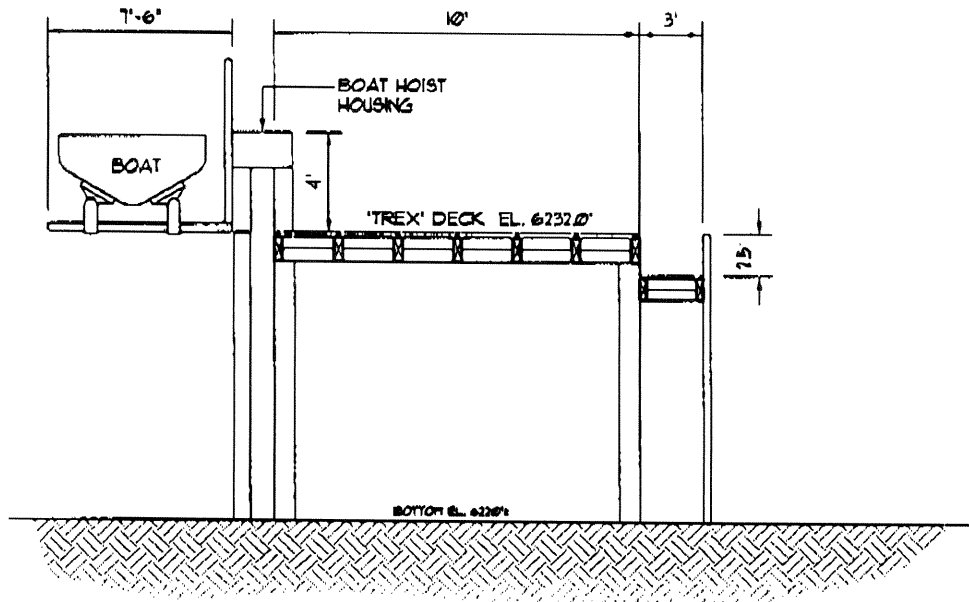
**AGAN CONSULTING CORPORATION**  
**LAND & SHOREZONE CONSULTANTS**

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 TELEPHONE: (775) 832-9300 OR (530) 541-1640 FACSIMILE: (775) 832-9301

MARCH 2004

SHEET 2 OF 3

EXHIBIT C



**BOATLIFT DETAIL**  
1/4" SCALE

NAKAZATO PIER MODIFICATION/BOATLIFT ADDITION  
4798 NORTH LAKE BOULEVARD, CARNELIAN BAY, CALIFORNIA  
PLACER COUNTY APN: 115-060-009

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FOR PERMIT EXHIBIT  
PURPOSES ONLY

**AGAN CONSULTING CORPORATION**  
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937 YAHOE BLVD., SUITE 120 INCLINE VILLAGE, NEVADA 89451  
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MARCH 2004

SHEET 3 OF 3



## TAHOE REGIONAL PLANNING AGENCY

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### MEMORANDUM

March 16, 2004

To: TRPA Governing Board  
From: TRPA Staff  
Subject: Annual Water Quality Report

Proposed Action: This is an informational item only. The 2003 Water Quality report will be sent under a different cover and posted on the TRPA website.

Background: The Water Quality Program publishes an annual report on the status of the water quality thresholds, WQ1 through 7. This is in addition to the Threshold Evaluation, which is completed every five years. The previous annual Water Quality report was completed in 1999, followed by the 2001 Threshold Evaluation.

Discussion: The 2003 report includes data for Secchi depth, turbidity, phytoplankton productivity, and tributary nutrient chemistry up to 2002. It also contains information on other related programs such as the EIP, BMP Implementation, and SEZ Restoration.

If there are any comments or questions regarding this agenda item, please contact Rita Whitney at 775-588-4547, ext. 258, or via email at [rwhitney@trpa.org](mailto:rwhitney@trpa.org).



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### MEMORANDUM

March 17, 2004

To: TRPA Governing Board  
From: TRPA Staff  
Subject: Report on Road Abrasives and De-Icers

Proposed Action: Governing Board Member Yount requested a status report on the use of road abrasives and de-icers. TRPA staff has requested representatives from the California Department of Transportation (Caltrans) and Nevada Department of Transportation (NDOT) to make presentations. This is an informational item only and no action is required.

Background: Caltrans and NDOT are required to keep records on the application, removal and chemical analysis of deicing material used in the Tahoe Basin. Chapter 81.4 of the TRPA Code of Ordinances requires highway departments to present annual reports to TRPA by June 1 of each year. TRPA staff have received reports on road abrasives and deicers since the early 1990's, but have not presented the results to the Governing Board in last few years. Recent studies and newspaper articles about air quality and tree mortality have renewed interest in the applications and improvements made by both agencies.

Staff will be available to comment on the presentations. In the future, TRPA staff would like to establish some common reporting requirements to better compare the two reports, and to encourage reporting from other jurisdictions (sites and counties).

If there are comments or questions regarding this agenda item, please contact Rita Whitney at 775-588-4547, ext. 258, or via email at [rwhitney@trpa.org](mailto:rwhitney@trpa.org).





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Email: trpa@trpa.org

### MEMORANDUM

March 17, 2004

To: TRPA Governing Board  
From: TRPA Staff  
Subject: Discussion of Role of Governing Board in Pathway 2007 Process

Proposed Action: The Governing Board is requested to review the enclosed Pathway 2007 Business Plan for use as a guideline for developing the programs and strategies to update the Thresholds and Regional Plan.

Background: Due to a weather delay of the Pathway 2007 Governing Board Committee meeting at the last Governing Board meeting, staff is enclosing an administrative draft of A Proposed Business Plan for Updating TRPA's Environmental Threshold Carrying Capacities and Regional Plan by 2007. An Executive Summary of the Business Plan is included in the Plan.

The Committee has scheduled a meeting March 17, 2004 to review the Business Plan. Staff will present the Committee's recommendations at the Governing Board meeting.

We encourage you to contact us for explanations and we may be contacting you. If you have any questions or would like to discuss any of the items please contact John Singlaub, Carl Hasty, or Gabby Barrett at 775-588-4547.



# TAHOE REGIONAL PLANNING AGENCY

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Email: trpa@trpa.org

March 11, 2004

To: TRPA Governing Board

From: TRPA Staff

Subject: Approval of Resolution Adopting the 2004 Regional Transportation Improvement Program

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Action Requested: Approve the resolution adopting the Lake Tahoe Region 2004 Regional Transportation Improvement Program.

Staff Recommendation: Staff recommend that the proposed 2004 RTIP be adopted.

Background: The following are excerpts from the California Transportation Commission's 2003 Annual Report to the California Legislature. The Annual Report provides a good background for the funding situation as the Tahoe Regional Planning Agency, acting as the Regional Transportation Planning Agency, considers adoption of the 2004 Regional Transportation Improvement Program.

### *Trends and Outlook for State Transportation Financing*

The state transportation financing picture in California has never been bleaker. Billions of dollars in needed and promised transportation projects have been stopped in their tracks or delayed for years. With transportation funds repeatedly taken to close the General Fund deficit, the California Transportation Commission has been forced to stop making allocations to projects from the three major components of the state transportation program, the State Transportation Improvement Program (STIP), the State Highway Operation and Protection Program (SHOPP), and the Traffic Congestion Relief Program (TCRP). Because of the state's funding crisis, regional and local agencies find themselves without access to the Federal funds to which they are entitled under state law. Cities and counties are not receiving state subventions committed to them in statute for local road rehabilitation and repair.

### *A Transportation Program in Crisis*

The STIP and the SHOPP constitute the major part of the state's transportation program, the planned commitments of state and Federal transportation dollars approved by the Commission and developed in cooperation with the Department of Transportation (Caltrans) and the state's regional transportation planning agencies. The STIP consists of improvements to the state highway system, the intercity rail system, and other road and transit facilities of regional significance. The SHOPP is the program for rehabilitation and safety work on the state highway system that does not involve increases in roadway capacity. At the end of 2003, there were over \$600 million in STIP and SHOPP projects ready to go to construction but held back for lack of funding. By June 2004, that figure could climb to over \$1.6 billion. According to the fund estimate for the 2004 STIP, current projects will be delayed by two years or more, and no new projects will be added over the next 5 years.

### *Revenues Lost*

The suddenness and severity of the cash crisis that brought this year's stoppage in the state transportation construction program is unprecedented, the symptom of a broader and longer term structural problem in California's system of transportation financing. Until a few years ago, the state's transportation programs relied almost exclusively on user fees in the form of fuel taxes and commercial vehicle weight fees. Article XIX of the California Constitution built a firewall around these revenues, protecting them from diversion for other purposes. In general, this provided a reliable basis for developing multiyear programs, and it could reasonably be assumed that funding would be available as projects were delivered. To be sure, the program went through cycles as funding fell behind delivery or delivery behind funding.

Expectations for future Federal transportation funding have declined and are still in doubt. The last six-year Federal transportation authorization act expired in September 2003, and the next authorization may not be enacted until late 2004 or 2005. Federal revenues for 2003-04 are now expected to be about \$366 million less than had been anticipated when the 2002 STIP was adopted. Future Federal funding may be reduced even further as a result of California's switch from MTBE to ethanol-blended gasoline. For the 2004 STIP fund estimate, Caltrans has estimated that the switch to ethanol will cost California \$2.8 billion in Federal revenues over the five-year STIP period through 2008-09.

Truck weight fees recently experienced a significant drop that should be remedied by next year. The Commercial Vehicle Registration (CVR) Act of 2001 (SB 2084, enacted in 2000) restructured weight fees, beginning January 1, 2002, changing the fee basis from unladen weight to gross vehicle weight. Although the CVR Act was intended to be revenue-neutral, Caltrans reported last year that weight fee revenues were down by about \$163 million per year from a prior level of about \$800 million per year. SB 1055 (2003) provided a remedy, increasing weight fees effective December 31, 2003.

In recent years, there have been \$5.9 billion in state transportation funding postponements, suspensions, and borrowings, including over \$3 billion in STIP funding. The problems began soon after the enactment of the Traffic Congestion Relief Act of 2000 (AB 2928). That Act not only made promises and commitments that have not been kept, it made the entire state transportation program subject to the vagaries of the annual budget process. The constitutional firewall that had protected transportation funding for decades came tumbling down in less than three years.

### *The Commission's Response*

The Commission has responded to the diversion and loss of transportation funds by suspending allocations, by monitoring cash flow closely, and by taking steps to fund projects by bonding against future Federal transportation apportionments. The Commission also delayed development of the 2004 STIP because of uncertainties in both Federal and state funding.

- In December 2002, the Commission suspended allocations to all STIP, TCRP, and SHOPP projects except for emergency repair, seismic retrofitting, and traffic safety.
- In April 2003, the Commission adopted an allocation plan for the STIP and SHOPP. Over the next three months, the Commission followed the plan to ration funding to \$1 billion of the \$1.4 billion in projects that were ready to go.
- In July 2003, the Commission suspended allocations again. The Commission, in cooperation with the Department, continues to monitor the availability of cash to support resuming allocations. The allocation plan calls for allocations of up to \$800 million for the SHOPP, depending on cash flow, and no allocations at all for the STIP through the end of 2003-04. SHOPP allocations were resumed on a limited basis in December 2003.

- For the 2003-04 Budget, the Commission assisted the Legislature in identifying the cash flow needed to meet reimbursements for TCRP projects that had already been allocated. The \$189 million identified in the Budget would meet that need.

In December 2003, the Commission adopted the fund estimate for the 2004 STIP. Under that estimate, the new STIP would add two new years (out to 2008-09) with no new project funding capacity. The \$5.4 billion in projects carried forward from the 2002 STIP would be rescheduled across the five years of the new STIP; delayed an average of two years.

*Outlook for the 2004 STIP*

The State Transportation Improvement Program (STIP) is updated biennially, with each new STIP adding two new years to prior programming commitments. The 2004 STIP, which will cover the five-year period through 2008-09, will have no new funding capacity. For the most part, it will simply reschedule the projects already programmed, delaying most projects by two years or more.

STIP proposals, primarily recommendations for the rescheduling of projects, will be made through the RTIPs and the ITIP, due for submittal to the Commission by April 12, 2004. The Commission is required to hold at least two public hearings on STIP proposals, and those have been scheduled for May 12 in Sacramento and June 16 in Santa Clarita. By statute, the staff of the Commission is required to publish its STIP recommendations at least 20 days prior to STIP adoption. The staff recommendations are scheduled for July 15, with STIP adoption scheduled for August 5.

Discussion: Staff received project cost, balance and component estimates from Caltrans on March 4, 2004. Based on the above discussion regarding the California funding picture, and the current status of the 2002 RTIP projects, the following are proposed as program policy direction for the 2004 RTIP:

1. No additional funding for the Echo Summit project is being proposed, and unspent funds from the 2002 RTIP programming are being transferred to the U.S. 50 Phase I project.
2. No additional funding for the U.S. 50 Phase II project is being proposed, and unspent funds from the 2002 RTIP programming are being transferred to the U.S. 50 Phase I project.
3. No additional funding for the Kings Beach Commercial Core project is being proposed. 2002 RTIP funds must be respread to meet CTC program targets.
4. For the U.S. 50 Phase I project, all 2002 funds are included in prior year programming, and the only new programming proposed is \$9.2 million being requested from the Southern Nevada Public Lands Management Act.
5. No funding is being proposed for Planning, Programming and Monitoring (PPM), CMAQ Match or transit vehicles or facilities.
6. \$181,000 is proposed for Transportation Enhancements (TE) in FY 04/05, consistent with the CTC targets provided to TRPA. Future year TE targets are also proposed. Enhancement targets are considered outside the Regional Improvement Program funds.

Each of the above projects are discussed in more detail below:

Echo Summit - This project involved the replacement of the viaduct. The estimated cost of construction is \$8,700,000. \$735,000 programmed in the 2002 RTIP was used for PA&ED and PS&E. \$440,000 of unspent prior year programming is to be transferred to the U.S. 50 Ph. I project. Removal of this project from the RTIP essentially places burden on the viaduct replacement with Caltrans as a bridge issue, and Caltrans can obtain funds for this work from other sources.

U.S. 50 Phase II - This project is between the South Wye and Trout Creek. Additional work is needed in all phases of this project, and construction is not expected to begin sooner than FY 08/09. \$497,000 of unspent \$1,297,000 of prior year programming is to be transferred to the U.S. 50 Ph. I project.

Kings Beach - This project is on SR 28 between Chipmonk and SR 267. Placer County is lead agency, and no transfer of funds is proposed. \$3,298,000 was programmed in the 2002, and this amount must be respread to the out-years of the program. Therefore, the Kings Beach project will be respread according to the targets provided to TRPA by the CTC.

U.S. 50 Phase I – This project continues to be the Region’s number one priority project. As such, all available funding in the 2004 RTIP is being committed here. \$5,044,000 was programmed in prior year RTIPs, some of which will be used to complete environmental and design, and some right-of-way support. An additional \$9.2 million from the Southern Nevada Public Lands Management Act will be programmed for right-of-way.

PPM/CMAQ match – No funding for Planning, Programming and Monitoring (PPM) or Congestion Mitigation Air Quality (CMAQ) is proposed in the 2004 program.

Enhancements – The CTC target for FY 04/05 for enhancement is \$181,000, and the full amount is proposed for the 2004 program. The Tahoe City Public Utility District is seeking additional funding for the Lakeside Bike Trail, and they are in the process of preparing an application for these funds.

“Attachment A” to the Resolution is a spreadsheet summarizing the Tahoe Region 2004 Regional Transportation Improvement Program.

If you have any questions on this matter, please contact Richard Wiggins at (775) 588-4547.



**Tahoe Regional Planning Agency,  
Sitting as the Regional Transportation Planning Agency  
TRPA Resolution No. 2004-\_\_**

**Adoption of the  
2004 California Regional Transportation Improvement Program**

WHEREAS, the Tahoe Regional Planning Agency (TRPA) has been designated a Regional Transportation Planning Agency for the California portion of the Tahoe Region; and

WHEREAS, the California Transportation Commission (CTC) has adopted guidelines that require each RTPA to adopt their 2004 Regional Transportation Improvement Program (RTIP) by April 12, 2004; and

WHEREAS, In December 2003, the Commission adopted the fund estimate for the 2004 STIP. Under that estimate, the new STIP would have no new project funding capacity. The \$5.4 billion in projects carried forward from the 2002 STIP would be rescheduled across the five years of the new STIP; delayed an average of two years.

WHEREAS, within the Tahoe Region the US 50 Highway Improvements Project Phase I is the region's number 1 priority; and

WHEREAS, to maintain Caltrans resources dedicated to US 50 Highway Improvements Phase I, unspent funds from the Echo Summit and US 50 Highway Improvements Phase II are being transferred to US 50 Highway Improvements Phase I; and

WHEREAS, the Tahoe Transportation Commission (TTC) recommended the TRPA Governing Board adopt the proposed 2004 RTIP at their March 12, 2004 meeting; and

NOW, THEREFORE, BE IT RESOLVED that the Governing Board of the Tahoe Regional Planning Agency, sitting as the Regional Transportation Planning Agency, adopts the Lake Tahoe Region 2004 Regional Transportation Improvement Program (Attachment "A").

PASSED AND ADOPTED this \_\_\_\_\_ day of March , 2004 by the Governing Board of the Tahoe Regional Planning Agency, sitting as the Regional Transportation Planning Agency, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

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David Solaro, Chairman  
Tahoe Regional Planning Agency

County	Agency	Rte	PPNO	Funds	Project	Total	Project Totals by Fiscal Year					Project Totals by Component							
							Prior	FY 04/05	FY 05/06	FY 06/07	FY 07/08	FY 08/09	R/W	Const	E & P	PS&E	R/W Sup	Con Eng	
<b>1 El Dorado Caltrans US 50 3208 US 50 Highway Improvements Ph. I</b>																			
				RIP		5,126	5126							2026		1000	1500	600	
				SNPLMA		9,200		9200						8800				400	
				TOTAL		14,326	5126	9200						10826		1000	1500	1000	
<b>2 Placer Placer DPW SR 28 4679 Kings Beach Commercial Core Impr</b>																			
				RIP		3,298		126	1,220	1032	920			1942			1187	169	
				SNPLMA		1,200		1200									1200		
				TOTAL		4,498		1326	1,220	1032	920			1942			2387	169	
<b>3 Various TRPA Various Transportation Enhancements</b>																			
				TE		3,385		181	97	99	100	103			3,385				
				TOTAL		3,385		181	97	99	100	103			3,385				

## TAHOE REGIONAL PLANNING AGENCY

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March 17, 2004

### MEMORANDUM

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment of Code of Ordinances Chapters 2, Definitions and 18, Permissible Uses to Recognize the Use of Single Family Homes as Vacation Rentals, and Other Matters Properly Relating Thereto

Proposed Action: Amend Chapters 2 and 18 of the Code of Ordinances to recognize the use of single family homes as vacation rentals provided that each local jurisdiction adopts and enforces regulations for vacation rentals to ensure compatibility with the character of the surrounding neighborhood.

Staff Recommendation: Staff recommends the Governing Board conduct the public hearing as noticed and adopt the proposed Regional Plan amendments.

APC Recommendation: Nine members voted to recommend approval of the proposed amendments as presented by staff. Three members abstained and the Placer County and Washoe County representatives voted no.

Background: The vacation rental issue originated in the South Shore about a year and half ago when citizens complained to the City of South Lake Tahoe, El Dorado County, Douglas County and TRPA about the neighborhood impacts of this use. This caused numerous local hearings and an El Dorado County Grand Jury investigation. TRPA has gradually been drawn into the issue primarily on land use regulation issues. The TRPA Local Government Committee also held several hearings on these issues. It should be noted that the use of single-family homes and condominiums as vacation rentals is not unique to the Tahoe Region and is a national issue, especially in other vacation destination communities.

During the December meeting, the TRPA Governing Board approved the following directive:

*Staff is hereby directed to bring back a proposal (including ordinances, plan amendments, MOUs, etc) needed to implement a proposal within three months that:*

- *Amends the current Regional Plan to clearly define vacation rental use as it relates to residential and/or tourist accommodation uses;*
- *Designates vacation rental use as a permissible use in both tourist accommodation and residential zoned areas provided the vacation rental use is conducted in a manner that is compatible with the surrounding neighborhood and is enforced by the local government;*

- *Delegates all nuisance and zoning enforcement of vacation rentals to local government;*
- *Continues TRPA enforcement of general environmental issues, i.e. unauthorized coverage, BMPs.*
- *Has been reviewed by stakeholders in a process to assist in the development of the necessary Regional Plan amendments and local government nuisance regulations.*

Each of the Local Government Committee members from the Governing Board (excluding Carson City) selected three people for the stakeholder group; one to represent the vacation rental/real estate interests, one to represent the neighborhood/environmental interests, and one to represent the local government/regulatory interests. The total number of the stakeholder working group was 15 plus Jerry Wells, TRPA Deputy Executive Director, representing TRPA's interests. Other interested citizens were welcome to come and observe; however, they were only allowed to speak through one of the 16 people at the "Table" who they felt best represented their interests. Staff proposed this format to ensure a manageable working group size. The stakeholder group convened for two all-day facilitated meetings, once on January 23 and again on February 12, 2004.

Some members of the vacation rental stakeholder group were not in total agreement with the proposed definitions. The disagreements on the definitions were from some of the neighborhood representatives and were philosophically based rather than any disagreement with the specific language. Three of the five neighborhood representatives felt that vacation rentals are inherently incompatible with residential neighborhoods regardless of the rules/standards that exist or could be developed.

Discussion: Without proper regulation and enforcement, vacation rentals can have a number of negative impacts in residential neighborhoods. These fall broadly into the categories of nuisance impacts, localized environmental impacts, and impacts on the character of residential neighborhoods. The most commonly cited problems by residents and public officials are nuisance impacts, such as noise and inappropriate behavior, overcrowding, excessive parking, and improper trash disposal.

In an effort to address these potential adverse impacts while allowing the use of single-family homes as vacation rentals, the Stakeholder group developed a series of amendments to the Code of Ordinances, specifically to Chapters 2, Definitions and 18, Permissible Uses. Those amendments are contained within Exhibits 1 and 2, respectively (attached).

The amendments developed with assistance from the vacation rental stakeholder group propose to incorporate 'vacation rentals' into the definitions of single-family dwellings and multiple family dwellings (up to a fourplex) within Chapter 18 of the Code, thereby allowing the use of residences as vacation rentals and/or residences. Vacation rental will be defined within Chapter 2 of the Code, the chapter that defines most terms used in the Code. By amending the Code as proposed, any plan area statement or community plan that contains these uses (single-family or multiple family, up to a fourplex, dwelling) within the list of permissible uses for that plan area are able to operate the home as a permanent residence or a vacation rental insofar as the use is compatible with the surrounding neighborhood.

TRPA will assign to the local jurisdictions to ensure vacation rentals operate as a normal residence. TRPA is requiring that the local jurisdictions enter into a cooperative agreement with TRPA that will clearly spell out the standards to which vacation rentals are to operate, and how the standards will be enforced. The standards with which vacation rentals are being required to comply are essentially the same as any single or multiple family residence would be required to meet. This agreement is anticipated to stipulate which entities within the jurisdiction will be responsible for which standards, that is, the County Sheriff may enforce noise standards, while the building department may regulate occupancy. Additionally, other municipal entities may be involved, such as a general improvement district.

The stakeholder group agreed that the neighborhood compatibility standards to be adopted and enforced by the local jurisdictions would include the following elements: occupancy, refuse/garbage, parking, noise, lighting, and signage. Each jurisdiction will need to adopt and enforce all the necessary regulations addressing these categories to ensure neighborhood compatibility and enter into a cooperative agreement with TRPA in order for vacation rentals to be considered an allowed use in residential neighborhoods. If not, this use will be considered a tourist accommodation use, which typically would not be allowed in residential neighborhoods

Staff is recommending up to a six month timeline for each local jurisdiction to adopt the necessary regulations and enter into a cooperative agreement with TRPA. The Governing Board may choose to extend this time limitation, however, staff believes that six months (60 days for the Ordinance to become effective, plus an additional four months after the rules become effective) is ample time to implement these agreements. During the period before these agreements are established, TRPA will continue its policy of non-enforcement. After six months, if any of the five local jurisdictions have not adopted neighborhood compatibility requirements, and entered into a cooperative agreement with TRPA, the use of residences as vacation rentals will not be allowed in those jurisdictions.

It is the local jurisdictions enforcement of these standards upon which TRPA staff is recommending approval of these amendments and making the necessary findings. Enforcement of land use standards is not easy for any jurisdiction, and is often susceptible to higher public safety priorities. TRPA is fully cognizant of this fact, but staff believes that programmatic enforcement in addition to self-policing by the vacation rental industry itself can go a long way in achieving compliance with the neighborhood compatibility requirements.

It is also important to note that each of the local jurisdictions have the ability to adopt standards that are more restrictive than those of TRPA. Therefore, should the local jurisdictions desire greater control or restrictions on the operation of vacation rentals, they can adopt more restrictive standards.

The analysis conducted by staff to determine whether or not the proposed action, amending the Code of Ordinances, would have a significant effect upon the environment, staff compared the activities associated with a vacation rental to that of a typical single-family home. Many, if not all, of these activities are the same, and nuisances can and are generated by local residents just as they are by people using a vacation rental. In so far as the impacts of a single-family home to the environment are the same as those potentially created by a vacation rental are the same, there is no

significant impact. For these reasons, TRPA is heavily relying upon the local jurisdictions to enter into the above described cooperative agreements to ensure that vacation rentals behave as a normal residence. If, for some reason, a jurisdiction chooses to not enter into an agreement with TRPA regarding vacation rentals, or choose not to enforce the agreements, then vacation rentals would be considered an illegal use within that jurisdiction and TRPA would be in the position of enforcing the zoning regulations of the Plan Area Statements and Community Plans and stop the use of residential properties as vacation rentals.

Effect on TRPA Work Program: Additional work remains to be done in developing and approving the cooperative agreements with five local jurisdictions, which is conservatively estimated to require 100 hours (20 hours per jurisdiction) from one lead staff member with additional time for support staff. This task will vary among the local jurisdictions, as some are farther along than others in developing operational standards for vacation rentals.

The level of enforcement required by TRPA for this amendment is anticipated to be minimal. TRPA looking to the local jurisdictions to enforce the vacation rental standards under the above referenced cooperative agreements. If this enforcement does not occur, this issue will need to be revisited by TRPA.

Required Findings: The following findings must be made prior to adopting the proposed amendments:

Chapter 6 Findings:

1. Finding: 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.

Rationale: The amendments will not hinder implementation of the Regional Plan. Integrity of the growth management programs of the Plan are maintained, PAS permissible use lists are not compromised, development standards remain in effect, mitigation programs (such as excess coverage) are unaffected, EIP implementation will continue.

Current information regarding the occupancy level of the average vacation rental would indicate fewer Vehicle Miles Traveled (VMT) and fewer Daily Vehicle Trip Ends (DVTE) would be expected from a vacation rental than from a permanently occupied residential unit. Even if the occupancy of the vacation rental were 100%, the VMT and DVTE would be expected to be within the acceptable levels for a single-family or multi-family dwelling. The variable trip rates within TRPA's traffic model are affected to a greater degree by household income than occupancy or residential use type; the higher the income the greater the trip rates. With recent improvements to the transit system in the South Shore area,

transit service is now available to many vacation rentals located in residential areas.

The amendments will not adversely affect TRPA's ability to implement the Goals and Policies pertaining to housing.

2. Finding: That the project will not cause the environmental thresholds to be exceeded.

Rationale: The proposed amendments will have no negative affect upon TRPA programs and regulations intended to ensure thresholds carrying capacities are not exceeded. Occupancy levels of vacation rentals indicate that less traffic impacts (DVTE and VMT) may be expected as compared to the same housing units occupied on a permanent basis by basin residents.

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

Rationale: Any project arising from the amendments must be consistent with air and water quality standards. The amendments have no affect on these standards.

4. Finding: The Regional Plan and all of its elements, as implemented through the Code, Rules and other TRPA plans and programs, as amended, achieves and maintains the thresholds.

Rationale: See findings 1 and 2 above.

5. Finding: The Regional Plan, as amended, achieves and maintains the thresholds.

Rationale: See findings 1 and 2 above.

Environmental Documentation: Staff has completed TRPA's Initial Environmental Checklist and Chapter 6 findings. Based upon the checklist, information in this staff summary and the record, staff is recommending that the Governing Board make a Finding of No Significant Effect.

Requested Action: TRPA staff requests the Governing Board make the following motions:

1. Make a Finding of No Significant Effect
2. Adopt the implementing Ordinance

Please contact Jerry Wells ([jwells@trpa.org](mailto:jwells@trpa.org)) or Peter Eichar ([recreation@trpa.org](mailto:recreation@trpa.org)), at (775) 588-4547, if you have any questions regarding this agenda item.

Attachments: A – Implementing Ordinance with corresponding Exhibit 1 – Chapter 2 changes and Exhibit 2 – Chapter 18 changes





TAHOE REGIONAL PLANNING AGENCY  
ORDINANCE 2004 –

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; AMENDING CODE OF ORDINANCES, CHAPTER 2, DEFINITIONS AND CHAPTER 18, PERMISSIBLE USES TO RECOGNIZE THE USE OF SINGLE AND MULTIPLE FAMILY DWELLINGS AS VACATION RENTALS, GIVEN CERTAIN CONDITIONS OF OPERATION TO ENSURE NEIGHBORHOOD COMPATIBILITY AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

The Governing Board of the Tahoe Regional Planning Agency does ordain as follows:

Section 1.00

Findings

- 1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending the Code of Ordinances Chapters 2 and 18 in order to further implement the Regional Plan pursuant to Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact.
- 1.20 These amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirements of an environmental impact statement pursuant to Article VII of the Compact.
- 1.30 The Advisory Planning Commission (APC) has conducted a public hearing on the amendments and recommended adoption. The Governing Board has also conducted a noticed public hearing on the amendments. At those hearings, oral testimony and documentary evidence were received and considered.
- 1.40 Prior to the adoption of this ordinance, the Governing Board made the findings required by Chapter 6 of the Code and Article V(g) of the Compact,
- 1.50 The Governing Board finds that the amendments adopted here will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental threshold carrying capacities as required by Article V(c) of the Compact.
- 1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00

Amendment of the Code of Ordinances, Chapters 2 and 18

Subsection 6.10, subparagraph (28) of Ordinance No. 87-9, as amended, is hereby further amended as set forth on Exhibits 1 AND 2, dated March 2 2004, which attachments are appended hereto and incorporated herein.

Section 3.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the Code of Ordinances adopted hereby shall be liberally construed to effect their purposes. If any section, clause, provision or portion thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and the amendments to the Code of Ordinances shall not be affected thereby. For this purpose, the provisions of this ordinance and the amendments to the Code of Ordinances are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this ordinance amending the Code of Ordinances shall be effective 60 days after its adoption.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held March 24, 2004, by the following vote:

Ayes:

Nays:

Abstentions:

Absent

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David Solaro, Chairman  
Tahoe Regional Planning Agency

New Language underlined in blue; Deleted language ~~stricken through~~ in red.

# Chapter 2

## DEFINITIONS

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### Chapter Contents

- 2.0 Purpose
- 2.1 Applicability
- 2.2 Definitions

2.0 Purpose: This chapter defines the terms used in the Code.

2.1 Applicability: This chapter shall be used in interpreting the Code and other TRPA plans and documents.

2.2 Definitions: The following terms are defined as set forth below.

\*\*\*\*\*

Local Assembly and Entertainment: See Chapter 18.

Local Government Neighborhood Compatibility Requirements: Requirements implemented and enforced by a local government through a cooperative agreement with TRPA that regulates vacation rentals to insure neighborhood compatibility that includes, but is not limited to mitigating the potential adverse impacts related to refuse/garbage, parking, occupancy, noise, lighting and signage.

Local Post Office: See Chapter 18.

\*\*\*\*\*

Repair Services: See Chapter 18.

Residential: Uses, facilities and activities primarily pertaining to the occupation of buildings ~~on a permanent basis~~ for living, cooking and sleeping by the owner as a permanent or second home, by renters on a monthly or longer term basis, or by renters of a vacation rental that meets the Local Government Neighborhood Compatibility Requirements.

Residential Area: See Subsection 13.5.B.

\*\*\*\*\*

Vacant Parcel: A parcel which is undeveloped or unimproved and has no established use.

Vacation Rental: A residential unit rented for periods of 30 days or less.

Vegetation: A collective term for plants.

New language underlined in blue.

# Chapter 18

## PERMISSIBLE USES

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### Chapter Contents

- 18.0 Purpose
- 18.1 Applicability
- 18.2 Accessory Uses
- 18.3 Table Of Primary Uses
- 18.4 Definitions Of Primary Uses
- 18.5 Existing Uses

18.0 Purpose: This chapter sets forth the allowable uses for the land areas within the Region. Allowable uses for the near shore, foreshore, backshore and lakezone are set forth in Chapter 51. The concept of "use" includes any activity, whether related to land, water, air or other resources of the region. The primary uses are "allowed", "special" and "nonconforming", the applicability of which terms to a particular parcel shall be determined by reference to the plan area statements and maps, community plans, redevelopment plans and specific or master plans, as the case may be. Generic primary uses are set forth in the Table of Uses in section 18.3.

\*\*\*\*\*

Hotels, Motels and Other Transient Dwellings Units: Commercial transient lodging establishments including hotels, motor-hotels, motels, tourist courts or cabins, primarily engaged in providing overnight lodging for the general public whose permanent residence is elsewhere. It does not include bed and breakfast facilities or vacation rentals.

\*\*\*\*\*

Multiple Family Dwelling: More than one residential unit located on a parcel. Multiple family dwellings may be contained in separate buildings such as two or more detached houses on a single parcel, or in a larger building on a parcel such as a duplex, triplex, or an apartment building. Vacation rentals are included, up to but not exceeding a fourplex, provided they meet the Local Government Neighborhood Compatibility Requirements as defined in Chapter 2. One detached secondary residence is included under secondary residence.

Single Family Dwelling: One residential unit located on a parcel. A single family dwelling unit may be contained in a detached building such as a single family house, or in a subdivided building containing two or more parcels such as a town house condominium. Vacation rentals are included provided they meet the Local Government Neighborhood Compatibility Requirements as defined in Chapter 2. A caretaker residence is included under secondary residence.

## TAHOE REGIONAL PLANNING AGENCY

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### MEMORANDUM

March 17, 2004

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment of Appendix H, A Visual Assessment Tool for Projects Located Within the Shoreland, of the Design Review Guidelines to Add Flexibility to the Rating System for Evaluating Glass Based on Reflectivity.

Proposed Action: To consider an amendment to Appendix H, Visual Assessment Tool for Projects Located within the Shoreland, of the *Design Review Guidelines* to rate glass based on reflectivity (See Exhibit 1).

Staff Recommendation: Staff recommends that the Governing Board conduct the public hearing as noticed and adopt the resolution amending the *Design Review Guidelines* to further implement the scenic review system by amending Appendix H to rate the contrast of glass based on reflectivity.

Discussion: In November 2002, the TRPA Governing Board adopted the Shoreland Scenic Ordinances, a new scenic quality review system for the shoreland area to provide consistency and quantification to meet Scenic Threshold Standards as prescribed in the 1987 Regional Plan. The system was a new approach to design standards that allows for a quantitative, flexible review process for adherence to protective standards. The process includes establishing visual magnitude limits that allow some increase in visible facades, yet avoid the greatly increased mass and scale described as a problem in the 2001 Threshold Evaluation. The system was designed to allow a wider field of design choices based on inherent characteristics of a particular site or neighborhood.

The system adopted for reviewing projects is referred to as the Visual Magnitude/ Contrast Rating System. The system was adopted as Appendix H of the *Design Review Guidelines*. The Contrast Rating part of the system is a tool to physically measure visual contrast and the resulting visual impact in the landscape. The contrast rating can be expressed numerically by assigning relative values to the color, form, line, and texture of a structure. Structures that have high visual contrast in relation to the natural landscape will have a greater visual impact and score lower than a structure that employs design techniques to mimic the natural landscape. Structures that are designed to "fit the site" rather than "fit the site to the building" will result in less contrast and, therefore, create less or no visual impact.

A key component of the system rates glass on facades facing the lake. Since glass by its very nature is reflective, the system assigned a low value of one (1) for regular glass and a high value of eight (8) for Schott Glass which has a reflectance rate < 3%. However, since the adoption of the ordinances, applicants and consultants have brought

it to staff's attention that numerous other manufacturers produce glass that has reflectance rates lower than regular glass, but because it is not Schott Glass it is treated as regular glass and assigned a value of one. Staff has reviewed the new information and agrees that other glass products do exist that have varying degrees of reflectivity and that the system should be updated to assign different values for different levels of reflectivity. This will provide more flexibility for the applicant when specifying glass for a rebuild or remodel.

Staff is proposing that Appendix H be amended to add a new table that will be used to assign numeric values based on the industry's reflectance rate standard. This standard is the amount of light reflected measured as a percentage of total light. Exhibit 1 illustrates the proposed changes to Appendix H. Staff is proposing that glass is rated on a scale of 1 to 8 in equal intervals.

Effects of Amendments on TRPA Work Program: The following elements proposed for adoption are expected to have a long-term positive effect on the TRPA work program. The amendments will provide flexibility for staff and applicants in selecting materials during the scenic quality review process for meeting the Shoreland ordinances.

The amendments will further help TRPA implement a quantifiable review system for scenic impacts. This will generally result in less time debating scenic impacts and appropriate scenic mitigation since it is a more systematic scoring process. This should reduce the amount of staff and applicant's time spent arguing the impact a project is having on scenic quality.

Required Findings: The following findings must be made prior to adopting the proposed ordinance amendments:

#### Chapter 6 Findings

1. Finding: 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.

Rationale: The amendments to the Visual Magnitude/Contrast Rating system are intended to provide a quantifiable mechanism within the Code to evaluate project applications and gain consistency in review of projects. Currently, all glass other than Schott is treated as regular glass even if they have a lower light reflectance rate and therefore, reduction in glare and less of an impact on scenic quality. The amendments are designed to remedy this situation and are intended to encourage the use of low to non-reflective glass on facades of structures facing the lake. This amendment will help in attainment and maintenance of Scenic Threshold standards.

2. Finding: The project will not cause the environmental thresholds to be exceeded.

Rationale: The amendments will not cause the environmental thresholds to be exceeded. As indicated in the 2001 Threshold Evaluation Report, the current process of evaluating scenic impacts based

on a qualitative analysis was shown to be ineffective in meeting the threshold. The amendments are designed to stop the continuing scenic degradation occurring in the shorezone by providing a quantifiable mechanism within the Code to evaluate project applications and gain consistency in review of projects. The amendments are intended to evaluate project impacts in a quantifiable manner in order to ensure attainment and maintenance of the Scenic Threshold standards.

3. Finding: Wherever federal, state, and local air and water quality standards applicable to the Region, whichever are stricter, must be attained and maintained pursuant to Article V(d) of the Compact, the project meets or exceeds such standards.

Rationale: Any proposal that may come forth due to this provision will be required to meet air and water quality standards as set forth in the TRPA Compact.

4. Finding: The Regional Plan, as amended, achieves and maintains the thresholds.

Rationale: See findings 1 and 2 above.

5. Finding: The Regional Plan and all of its elements, as implemented through the Code, Rules and other TRPA plans and programs, as amended, achieves and maintains the thresholds.

Rationale: See findings 1 and 2 above.

Required Findings: The following findings must be made prior to adopting the proposed amendments to the *Design Review Guidelines*:

#### Chapter 6 Findings

1. Finding: 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.

Rationale: The 1996 and 2001 Threshold Evaluation Reports indicate declining ratings for shoreline travel units. The movement away from threshold attainment for these units is attributable in part to the absence of a coherent and consistent project review system. This amendment to the *Design Review Guidelines* will not adversely affect implementation of the Regional Plan. The proposed amendment is intended to clarify the process for evaluating reflectivity of glass to apply an appropriate rating as part of the scenic review system for Shoreland projects.

2. Finding: The project will not cause the environmental thresholds to be exceeded.

Rationale: The amendment will not cause the environmental thresholds to be exceeded. The amendment is intended to evaluate impacts

to environmental thresholds and to assist with the attainment of the Scenic Resource Threshold.

Finding: Wherever federal, state, and local air and water quality standards applicable to the Region, whichever are stricter, must be attained and maintained pursuant to Article V(d) of the Compact, the project meets or exceeds such standards.

Rationale: Any proposal that may come forth due to this provision will be required to meet scenic resource threshold standards as set forth in the TRPA Compact.

4. Finding: The Regional Plan, as amended, achieves and maintains the thresholds.

Rationale: See findings 1 and 2 above.

5. Finding: The Regional Plan and all of its elements, as implemented through the Code, Rules and other TRPA plans and programs, as amended, achieves and maintains the thresholds.

Rationale: See findings 1 and 2 above.

Environmental Documentation: Staff has completed an Initial Environmental Checklist and proposes a Finding of No Significant Effect (FONSE).

Requested Action: Staff requests the Governing Board take the following action:

1. Make the Chapter 6 Findings and a Finding of No Significant Effect based on the evidence in the record.
2. Adopt the resolution implementing the proposed scenic amendments

If you have any questions or comments on this matter please call John Hitchcock at 775-588-4547, or email at [jhitchcock@trpa.org](mailto:jhitchcock@trpa.org).

Attachments A. Adopting Resolution with Exhibit 1, Proposed Amendments, Design Review Guidelines, Appendix H



TAHOE REGIONAL PLANNING AGENCY

RESOLUTION 2004-\_\_

RESOLUTION OF THE TAHOE REGIONAL PLANNING AGENCY TO AMEND THE  
*DESIGN REVIEW GUIDELINES* TO AMEND APPENDIX H, A VISUAL ASSESSMENT  
TOOL FOR THE REVIEW OF PROJECTS LOCATED WITHIN THE SHORELAND TO  
IMPLEMENT A NEW RATING SYSTEM FOR GLASS

WHEREAS, the *Design Review Guidelines*, adopted on September 27, 1989 by Ordinance 89-16 shall be amended by resolution of the Board; and

WHEREAS, amendments to the *Design Review Guidelines* adopted by the Board, and any amendment or repeal thereof, shall become effective 60 days after adoption of this resolution; and

WHEREAS, in order to maintain and improve the overall quality of the built environment in the Lake Tahoe Region and attain TRPA's adopted Scenic Resource Threshold, TRPA has adopted design standards and the *Design Review Guidelines*. The *Design Review Guidelines* manual contains a collection of design, site planning, and visual assessment tools that may be used during project development to meet the design standards. The *Design Review Guidelines* are intended to create and maintain community settings that are visually attractive to both visitors and residents.

NOW, THEREFORE, BE IT RESOLVED that the Governing Board, based on the recommendation of Staff and substantial evidence in the record, hereby amends Appendix H, of the *Design Review Guidelines*, as shown on Exhibit 1, dated March 11, 2004.

Passed and adopted this 24<sup>th</sup> day of March, 2004, by the Governing Board of the Tahoe Regional Planning Agency by the following vote:

Ayes:

Nays:

Abstain:

Absent:

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David Solaro, Chairman  
Tahoe Regional Planning Agency



New language is underlined in blue; language to be deleted is ~~struck-out~~ in red.

## Appendix H

# VISUAL ASSESSMENT TOOL FOR THE REVIEW OF PROJECTS LOCATED WITHIN THE SHORELAND

### VISUAL MAGNITUDE/CONTRAST RATING PROCEDURAL STEPS

1. Determine the square footage of differing surfaces (i.e., roof, windows, shingle, stone) by direct measurement of the building(s)/structure(s) on the project area from elevation views.
2. Determine the percentage of each differing surface in relation to the overall square footage of the façade facing the lake.
3. Utilize the Color Matrix below to determine the rating for each differing surface except glass, which is rated in step 4. Use the percentage of each differing surface and multiply by the appropriate rating. Sum the results, this is your Color Score. For unique site conditions where the dominant color in the background is gray or green, the Brown to Black category may be used for scoring. ~~Use the Light/Gloss column to determine the color rating for glass.~~

<b>Color Matrix</b>	<b>Light/Gloss (<del>Glass</del>) (Munsell Color Value 7+)</b>	<b>Medium Light (Munsell Color Value 6)</b>	<b>Medium (Munsell Color Value 4-5)</b>	<b>Medium Dark (Munsell Color Value 2-3)</b>	<b>Dark/Flat (Munsell color Value 0-1)</b>
White to Light Gray	1	2	3	4	5
Yellow	2	3	5	6	8
Red	3	5	6	8	10
Blue	4	6	8	10	12
Gray	5	7	9	12	15
Green	6	8	11	13	16
Brown to Black	8	10	12	15	17

4. Utilize the Glass Matrix below to determine the rating for all glass surfaces facing the lake. Determine the Visible Light Reflectance/Reflection value provided by the glass manufacturer and determine the appropriate rating. Multiply the rating and the percentage of glass facing the lake derived in Step 2 above. This is your Glass Score.

<b><u>Glass Matrix</u></b>	
<b><u>Visible Light Reflectance/Reflection (%)</u></b>	<b><u>Rating</u></b>
<u>&gt; 15</u>	<u>1</u>
<u>14 – 15</u>	<u>2</u>
<u>12 – 13</u>	<u>3</u>
<u>10 - 11</u>	<u>4</u>
<u>8 – 9</u>	<u>5</u>
<u>6 – 7</u>	<u>6</u>
<u>4 – 5</u>	<u>7</u>
<u>≤ 3</u>	<u>8</u>

5. Determine the number of plane surfaces visible. The visible plane column will be used in Step 6 to determine the appropriate rating. See Figure 2 for graphic examples.
6. Determine the appropriate surface pattern for each differing surface determined in Step 1. Using the Surface Plan & Texture Matrix below and the appropriate visible plane column from Step 5, assign a appropriate rating and multiply it to the percentage of each differing surface derived from Step 2. Sum the results, this is your Surface Plan/Texture Score.

Surface Plane & Texture Matrix		Number Planes				
		1 Plane	2 Plane	3-4 Planes	5-6 Planes	7 or more Planes
Surface Pattern	Surface Plane with little or no Texture	1	2	3	4	5
	Surface Plane with Minimal Texture	2	3	4	5	6
	Surface Plane with Moderate Texture	3	4	5	6	7
	Surface Plane with Heavy Texture	4	5	6	7	8
No to Little Texture: Stucco walls, plywood, <a href="#">glass</a> , and metal roofing. Moderate Texture: Shiplap siding, heavy v-joint siding, wood shingle roofs. Heavy Texture: Rock masonry, logs, boards and batten, composite shingle, shake roof.						

7. From the critical viewing point 300 feet offshore, estimate the percent of the building(s)/structure(s) perimeter<sup>1</sup> that is visible. Then determine the rating on the Perimeter Matrix below. See Figure 1 for graphic examples. This rating is your Perimeter Score.

Perimeter Matrix	Percent of Perimeters of Structure Visible									
	0-10%	10-20%	20-30%	30-40%	40-50%	50-60%	60-70%	70-80%	80-90%	90-
Rating	10	9	8	7	6	5	4	3	2	1

8. Add the ~~three~~ **four** scores (Color Score, Glass Score, Perimeter Score, and Surface/Texture Score). This is the CONTRAST RATING.
9. Using THE VISUAL MAGNITUDE/CONTRAST RATING TABLE, move down the Contrast Rating Column until you reach the Contrast Rating determined in Step 7.

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<sup>1</sup> Perimeter refers to the edges of the building(s)/structure(s) and not to the visible mass or square footage facing the lake. This is a linear measurement not an area measurement.

## TAHOE REGIONAL PLANNING AGENCY

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March 17 2003

### MEMORANDUM

To: TRPA Governing Board

From: TRPA Staff

Subject: Notice of Comment Period for the Tahoe City Marina Master Plan Draft Environmental Impact Statement (DEIS) and Draft Environmental Impact Report (DEIR) Sixty (60) Day Public Review And Comment Period

Proposed Action: No formal action is proposed for this item at this time. Staff is requesting comments on the content of the environmental document for the Tahoe City Marina Master Plan DEIS/DEIR.

Staff Recommendation: Staff recommends that a public hearing be held to gather public input and comments on the DEIS/DEIR.

Background: Marinas provide a major means of public access to lake Tahoe. Seeing the Tahoe Basin from the Lake gives the viewer a very different and revealing perspective and appreciation of the area than from any viewpoint on land. A marina that is poorly designed, operated or maintained can detract from the community and be a source of environmental impacts not to mention a safety hazard. The goal of all parties concerned with marina planning and operation is that marinas make a positive contribution to the Lake Tahoe environment and community.

The environmental threshold for recreation as defined in the Recreation Element of the Goals and Policies states that "it shall be the policy of the TRPA Governing Body in the development of the Regional Plan to preserve and enhance the high quality recreational experience. In developing the Regional Plan, the staff and Governing Board shall consider provisions for additional access, where lawful and feasible, to the shorezone and high quality undeveloped areas for low density recreational uses". In addition, the threshold also states that the "TRPA Governing Board in development of the Regional Plan is to establish and ensure a fair share of the total Basin capacity for outdoor recreation is available to the general public". Marinas can make an important contribution toward meeting the recreation threshold in ensuring that high quality recreational opportunities are available to the general public.

Section 54.12 of the TRPA Code of Ordinances outlines the development standards for Marinas in the Tahoe Region. Subsection 54.12.A states that applications for new marinas and major expansions of existing marinas shall include an EIS pursuant to Chapter 5 and a master plan pursuant to Chapter 16. At a minimum, the EIS shall assess potential impacts on beach erosion, prime fish habitat, water quality and clarity, and determine the public need for the project.

In 1990 TRPA adopted Marina Master Plan Guidelines. These guidelines state that any marina expansion of more than 10 slips or 10 buoys requires a TRPA-approved master plan. Chapter 16 identifies master plan as a project oriented plan. Adoption of a master plan is an amendment to the Regional Plan which has some very specific procedural requirements. The master plan, once adopted, becomes a supplement to the applicable plan area statement (PAS) or community plan (CP). In this case, the Tahoe City Marina Master Plan will supplement the Tahoe City Community Plan.

#### Proposed Master Plan and Environmental Process

The Tahoe City Marina contracted with Design Workshop to develop and draft the Master Plan. The Master Plan Improvements are proposed to be developed under a two phase approach.

#### **Phase I (Project Level Analysis)**

- 905 linear feet of new marina bulkhead
- 81 additional boat slips (81 PAOTs)
- New parking structure with a net increase of 84 parking spaces
- Relocation of the boat launch facilities
- Relocation and construction of new fuel pumpout and Bilge pumpout facilities
- Boat rack storage to accommodate up to 12 boats
- New harbor master and public service building

#### **Phase II (Programmatic Level Analysis)**

- 1000 linear feet of additional marina bulkhead
- 100 new slips, removal of 41 existing buoys (net gain of 60 PAOTS)

The environmental document in which these improvement are analyzed is a Draft Environmental Impact Statement (DEIS)/Draft Environmental Impact Report (DEIR). TRPA is the lead agency for the EIS and Placer County will be the lead agency for the EIR under CEQA.

A five-party contract has been signed between TRPA, the Tahoe City Marina, Placer County, Tahoe City Public Utility District (for the Harbor Master Building/PumpStation) and Placer County Redevelopment (parking structure). The selected environmental document consultant is EDAW. The role of this consultant is to facilitate the environmental process and draft the EIS/EIR. On May 14, 2001 a public scoping meeting was held to gather public input and comments on the scope of issues that should be analyzed in the environmental document. The next step in the environmental documentation process is this Notice of Comment Period (a sixty (60) day circulation for public review and comment) which began on **February 27, 2004** and will close on **April 26, 2004**. The purpose of the sixty (60) day Comment Period is to gather input from both public and private entities regarding the adequacy of disclosure for the issues, concerns, impacts, and mitigations that are addressed in the environmental document.

If you have any questions regarding this agenda item please call Coleen Shade at (775) 588-4547 or email to [coleens@trpa.org](mailto:coleens@trpa.org). If you wish to comment on the environmental document in writing, please send your comments in writing to:

Coleen Shade, Long Range Planning Division  
Tahoe Regional Planning Agency  
P.O. Box 5310  
Stateline , NV 89448



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### MEMORANDUM

March 16, 2004

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment to Chapter 43, Subdivisions, and Related Chapters, to Provide Exemptions for Certain Existing Structures From Density and Low Cost Housing Requirements

Proposed Action: At the direction of the TRPA Governing Board (see Attachment A, January 2004 Governing Board meeting minutes), staff requests the GB consider amendments to the TRPA *Code of Ordinances*, that would allow TRPA to approve Mr. Ancil Hoffman's subdivision project.

Staff Recommendation: Consistent with the Executive Director's decision to deny the Ancil Hoffman Appeal (Agenda Item XIII.A), staff recommends denial of the appeal and no action on these proposed amendments. If the Board, does decide to give Mr. Hoffman relief, staff then supports the APC recommendation.

APC Recommendation: APC recommends that the Governing Board approve amendments to the Code of Ordinances, Subsection.43.2.B, Low Cost Housing, and Subsection 43.2.D, Density to exempt certain projects as described in Option B below. As proposed, an exemption from these requirements would apply to existing multifamily attached units that were subdivided prior to 1972 and have since consolidated, and now want to re-subdivide the existing units. The APC requested that staff inform the Governing Board that this recommendation was based on their understanding of the Governing Board's direction found in the January minutes and was not necessarily how they would prefer to resolve the problem.

Background: At their January 2004 meeting, the TRPA Governing Board heard an appeal of a staff denial to subdivide an existing 4-plex, multi-family structure in Incline Village. That staff summary is Attachment B. The Board struggled with the application of TRPA standards for density and low cost housing and the applicant's representation of hardship due to conflicting standards and alleged miscommunications between Washoe County, TRPA staff, and the applicant.

The problem was aggravated when the applicant first applied to Washoe County without applying to TRPA. Generally, most applicants submit to TRPA first since TRPA generally has the most restrictive standards. In June 2000, the project applicant, Mr. Ancil Hoffman, obtained approval from Washoe County to re-subdivide the four-unit residential project. County zoning for Medium Density Urban allows 21 units per acre (as opposed to TRPA's density of 15 units per acre). Washoe County has no mitigation requirements for low cost housing.

TRPA and the County are independent jurisdictions with their own regulations concerning development except in community plan areas. Mr. Hoffman's proposed project is outside of the community plan area and within the Incline Village Residential Plan Area, which has not been adopted by the County. Washoe County has not adopted TRPA provisions for protection and mitigation of low cost housing nor do they have any similar requirements. Consequently, Mr. Hoffman must obtain approval from both jurisdictions, after each independently applies its own regulations. Additionally, the TRPA Compact states that the most restrictive regulations apply.

The TRPA staff denial was based on conflicts with the following TRPA regulations:

**TRPA Density Standards.** The applicant's proposed subdivision did not meet TRPA's density standards for the Incline Village Residential Plan Area Statement (PAS) and was denied, in part, based on density for multi-family structures. The density standard for the Incline Village Residential PAS is a maximum of 15 units per acre (which is and has been the maximum for the Region since 1972). Under 15 units per acre density, three units are permitted for the proposed project area's size as summarized in the table below.

<b>Maximum Allowable Density for a Market-Rate Subdivision of an Existing Structure</b>	
Parcel Size (in square feet)	<b>8,319 square feet</b>
Parcel Size (in acres)	8,319/43,560 = <b>0.19097 acres</b>
Base Allowable Density (15 units/acre)	0.19097 acres x 15 units per acre = 2.86466 units (equal to <b>2 units</b> after rounding)
Additional Density Allowed (10%)	2.86466 units x 1.1 = 3.15114 units (equal to <b>3 units</b> after rounding)

**Low Income Housing Requirements.** Based on a May 2003 appraisal submitted by Mr. Hoffman, TRPA staff determined that all four units in this project met the definition of low cost housing. Preservation of low cost housing is a goal of TRPA's Regional Plan (*Goals and Policies*, Chapter II, Land Use Element - Housing Sub-element, Goal # 1, Policy # 1), and is implemented through the TRPA Code. In July 2002, the TRPA Governing Board amended the Low Cost Housing Ordinance. Effective September 22, 2002, TRPA defines low cost housing as follows:

*Low cost housing are residential units which are sold or rented at prices and rates affordable to households or tenants that earn not more than 120 percent of the applicable county median income. Low cost housing shall not include units with a rental rate that exceeds 30% of the tenant's monthly gross income, or sell at rates that exceed 2.5 times the gross annual household income. (TRPA Code Section 41.2.F (2002)).*

Using this updated Code definition, TRPA staff calculated the low cost housing rental and sales rates for Washoe County for a family of six as follows:

- Low Cost Housing Annual Income Limit<sup>1</sup>: 73,312 x 120% = \$87,974

<sup>1</sup> Source: Median Family Income from Housing and Urban Development Home Program Income Limits, 2/2004, Reno MSA, Nevada. During discussions with Mr. Hoffman, TRPA staff based its maximum housing costs on a family of four. However, upon further review, TRPA staff has determined that a family of six is the more appropriate size because Mr. Hoffman's units each have three bedrooms. Using a family of six does not affect staff's designation of the units as low cost housing, but would enable Mr. Hoffman to obtain greater rental or sales values if he opts to deed restrict them as low cost housing.

- Gross Monthly Income: \$87,974/12 = \$7,331
- Low Cost Housing Max. Total Monthly Housing Cost<sup>2</sup>: 7,331 x 30% = **\$2,199**
- Maximum Sales Rate per unit: 87,974 x 2.5 = **\$219,935**

Subdivision of existing low cost housing residential units is not permitted unless mitigation is provided on a unit-by-unit basis for the loss of low cost housing. The May 2003 appraisal submitted by Mr. Hoffman concluded that the monthly rent for each unit was estimated to be \$1,300. Because this rental value is less than the **\$2,199** cap, Mr. Hoffman's subdivision application can only be approved if the units are mitigated, e.g., through a deed restriction to maintain their status as low cost housing.

Mr. Hoffman appealed TRPA's application of the low cost housing requirements to his project by arguing that the previous TRPA definition of low cost housing should have been used. Although application of the old definition would have resulted in a determination that his units would not qualify as low cost housing (as the \$1,300 monthly rent is above the previous \$1,000 cap), TRPA staff properly employed the updated definition. TRPA is required to apply the ordinances in effect when acting on project applications versus the date of project submission. The old definition is as follows:

*Low cost housing are residential units, which are sold or rented at prices and rates affordable to households or tenants that earn not more than 120 percent of the median income. Low cost housing units shall not include units with a per unit value greater than \$85,000 or units with a fair rental value greater than \$1,000 per month, as adjusted annually (TRPA Code Section 41.2.F (1993)).*

Mr. Hoffman further argued that the former definition of low cost housing should have been applied to his project because that definition was set forth in the TRPA Subdivision of Existing Structures Information Packet and Checklist, even after the Low Cost Housing Ordinance was amended. TRPA agrees that the application packet was not updated to reflect the new definition in a timely manner. This fact, however, does not exempt applicants from having to comply with adopted regulations. The information packet was immediately updated after the oversight was brought to the attention of TRPA. Moreover, TRPA staff has adopted a protocol to ensure that new code language is promptly reflected in all application materials.

Alternatives: TRPA staff presented Mr. Hoffman with the following alternatives to denial:

- A. Reduce the density of the project to three units, and "bank" the fourth residential unit of use. The banked unit of use could be sold or used at another location to develop a low cost residential unit. The remaining units must be deed restricted as low-cost housing or mitigated off-site.
- B. Request an amendment to the Subdivision Standards of the TRPA Code of Ordinances to allow the conversion of existing structures to increase the density by more than 10 percent. 26% or greater would make the four units permissible and off-site low cost mitigation would be required.
- C. Deed restrict all four units to affordable housing and then subdivide those units. The project is located in Plan Area Statement 046, Incline Village Residential, which has Special Designation as a preferred affordable housing location, and is eligible to receive bonus units under Chapter 35 of the TRPA *Code of Ordinances'* Bonus Unit Incentive Program. If the project were deed restricted to

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<sup>2</sup> The total monthly housing cost includes all utility expenses as well as rent. The limits above were based on a family size of six.

affordable housing, there is a provision under Subsection 21.3.B of the TRPA Code where the project area density may be increased by 25 percent.

- D. Additionally, under the Bonus Unit Incentive Program, bonus units could be assigned to the project for the affordable housing units, enabling the four existing low-cost housing units to be transferred to another location and used to develop market rate multifamily residences. By combining the provision for affordable housing density bonus (25%) with the 10% density increase allowed for subdivision of existing units, the requested four unit subdivision density would closely meet the required density. (The project area would need to be increased by an additional 129 square feet.)

The project applicant was not interested in any of the alternatives proposed by staff. At the conclusion of the January Governing Board public hearing on this appeal the TRPA staff was directed by the Board to consider Code amendments to allow the subdivision of this existing four-plex multi-family structure.

Amendment Options: TRPA staff drafted two Code amendment options for review, discussion and, ultimately, the recommendation of one option to the Governing Board for action. Staff looked at increasing the maximum permissible density beyond 15 units per acre for the entire Region. The 15-unit density that TRPA has used since 1972 is based on relationships to land coverage, height, parking requirements and unit size. TRPA does have a 25% exception for affordable housing, which generally have smaller units, and no specified density for redevelopment projects that have additional height limits. Staff chose to present Chapter 43 options that limit the density issue and moderate housing issue to certain existing structures. Staff also considered a variance option, but using the variance language existing in the 1972 Ordinance the findings could not be made for this project. The two options are below:

**I. Option A. Land Coverage/Density/Moderate Housing Exemption: This option amends the following four subsections of Chapter 43:**

This option would permit the proposed project to be subdivided with off-site land coverage reduction and meet the needs for low cost housing through existing measures for off-site mitigation or approval of a local government program. The ordinance allows for increased density for coming more into conformance with the Soils Conservation Threshold and allows the applicant and the local jurisdiction three options. As a note, low cost housing is defined as moderate housing under state and federal standards – up to 120% of median income. There has been a determination that there is a shortage of moderate housing and additional incentives to encourage moderate housing development will be presented to APC next month. This exemption does not address the applicant's desire to have his project approved in a simple manner and without additional mitigation. As drafted it is very limited as explained in Option B.

- 43.2.B Low Cost Housing: Existing residential units which are low cost housing, as defined by 41.2.F, shall not be subdivided unless mitigation is provided on a unit by unit bases for the loss of low cost housing. Mitigation shall be in the form of construction of an equal number of low cost units, conversion of other structures to low cost housing, restriction of subdivided units to low cost housing units, or a combination of the above. [Existing attached multi-family structures legally subdivided prior to February 10, 1972 are exempt from this provision, provided, that the](#)

newly subdivided units remain attached and, pursuant to subsection 43.2.M below, the local jurisdiction adopts and implements a low cost housing program.

43.2.C Land Coverage: Prior to approving a subdivision of an existing structure, TRPA shall require submittal of a site plan showing all existing land coverage.

(1) Conversions of existing structures shall be subject to the excess coverage mitigation requirements in Section 20.5 to the extent the subdivision includes, or is approved in conjunction with, building modifications; and if applicable,

(2) Existing attached multi-family structures legally subdivided prior to February 10, 1972 that are exempt from the density provisions of 43.2.D below, are required to reduce excess land coverage pursuant to the requirements of that subsection.

43.2.D Density: Subdivision of existing structures which exceed the density standards in Chapter 21, or the applicable plan area statement, by more than 10 percent shall not be permitted.

(1) Determination of Density Standards

(a) Conversions of existing structures which exceed the density standards in Chapter 21 by no more than ten percent may be permitted provided TRPA finds that the resultant excess density is not inconsistent with the surrounding uses and the goals of the applicable plan area statement.

(b) For purposes of this chapter, the density standard for single family residential units shall be the multi-family density standard in the applicable plan area statement.

(c) If multi-family is not a permitted use, then the density standard for single family residential units in a subdivision or planned unit development shall be the density shown on the subdivision map provided the map, or the subdivision map does not depict a specific density, then the density standard for single family residential units shall be four units per acre.

(2) Exemptions: Existing attached multi-family structures legally subdivided prior to February 10, 1972 that are located in a Plan Area Statement identified as eligible for the Multi-Residential Incentive Program are exempt from this provision provided that the newly subdivided units remain attached and any excess coverage on-site is removed or mitigated through the Excess Coverage Program of Section 20.5 to the base allowed coverage for the project area applying for subdivision.

43.2.M Substitution of Local Housing Plans: If a local jurisdiction adopts and implements a program which addresses the need for low cost housing

within its jurisdiction, then TPRA may, by ordinance, exempt projects within that jurisdiction from the provisions of subsection 43.2.B.

**II. Option B. Limited Exemption: This option amends the following two subsections of Chapter 43.**

This option provides the simplest amendment with a very limited application. Staff assumes that based on 30 years of project review without processing an application for a subdivision of a structure that had been subdivided and then reverted to acreage that this exemption will apply to a very limited category of properties. While the exemption of one or two projects may be insignificant in the Region, there will be a lost opportunity to achieve coverage and moderate housing mitigation.

43.2.B Low Cost Housing: Existing residential units which are low cost housing, as defined by 41.2.F, shall not be subdivided unless mitigation is provided on a unit by unit bases for the loss of low cost housing. Mitigation shall be in the form of construction of an equal number of low cost units, conversion of other structures to low cost housing, restriction of subdivided units to low cost housing units, or a combination of the above. [Existing attached multi-family structures legally subdivided prior to February 10, 1972 shall be exempt from this provision, provided, that the newly subdivided units remain attached.](#)

43.2.D Density: Subdivision of existing structures which exceed the density standards in Chapter 21, or the applicable plan area statement, by more than 10 percent shall not be permitted. [Existing attached multi-family structures legally subdivided prior to February 10, 1972 shall be exempt from this provision, provided, that the newly subdivided units remain attached.](#)

Required Findings: The following findings must be made prior to adopting the proposed amendments:

A. Chapter 6 Findings:

1. Finding: 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.

Rationale: Option A provides a very limited net benefit for land coverage and for moderate housing. Option B relies on its applicability to subdividing a very limited set of existing projects for a finding of no significant effect. The ordinance amendment will make the project consistent with the items listed above.

2. Finding: That the project will not cause the environmental thresholds to be exceeded.



Rationale: Both Options will not cause thresholds to be exceeded under this new Code language. Option A will minutely assist land coverage attainment.

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

Rationale: See Findings 1 and 2 above.

4. Finding: The Regional Plan and all of its elements, as implemented through the Code, Rules and other TRPA plans and programs, as amended, achieves and maintains the thresholds.

Rationale: See Findings 1 and 2 above.

Environmental Documentation: Option A provides a very limited net benefit for land coverage and for moderate housing. Option B relies on its applicability to subdividing a very limited set of existing projects for a finding of no significant effect. Based on the above analysis and completion of an IEC, a Finding Of No Significant Effect based on no environmental impacts were identified that cannot be mitigated to a less than significant level.

Requested Action: TRPA staff requests the Governing Board make the following motions:

1. Make a Finding of No Significant Effect
2. Adopt the implementing Ordinance for Option B.

If there are any questions regarding this agenda item, please contact Coleen Shade at (775) 588-4547 or at [coleens@trpa.org](mailto:coleens@trpa.org).

Attachments: A. Minutes of January 2004 Governing Board Meeting Minutes  
B. Hoffman Appeal Staff Summary  
C. Adopting Ordinance  
D. Location Map

XIII. APPEALS

- A. Appeal of Executive Director Denial of Subdivision Application, Ancil Hoffman, 210 Robin Drive, Washoe County APN 132-212-02, TRPA File No. 20031159

Associate Planner Melissa Shaw provided a PowerPoint presentation on the project's history and explained the Executive Director's denial of a request to subdivide an existing four-unit structure. The Director's denial was based on the fact the subdivision did not meet density standards or the low cost housing definition. Ms. Shaw's presentation addressed density, low cost housing, unit size and sale price and rental costs, Washoe County's zoning of the parcel, the status of code and application information on TRPA's web site, project alternatives, and staff's response to Mr. Hoffman's appeal points.

Mr. Ancil Hoffman III addressed the Board on density, the low income threshold, and the level of staff assistance in his processing of the application. He summarized his staff contacts and previous assurances he could convert the fourplex to a condominium because of its compliance with zoning and density provisions and its compliance with the application criteria as set forth in the TRPA's web site and packet materials. He provided information on discrepancies between Washoe County and TRPA density limits and the amendment of the low cost housing and rental figures which had occurred while his application was being reviewed by TRPA. The out-of-date numbers were still reflected in the TRPA's application packets. He had completed extensive renovation of the building to bring it up to condominium standards over the last two years in compliance with Washoe County requirements and had spent \$120,000 in the process on fire walls, sound proofing, plumbing, and electrical work. At no time during the two-year review process was he advised by TRPA staff that the low income housing standards had gone up since the original submittal and that he would be required to meet those new standards.

Agency Counsel John Marshall explained that a finding regarding a project's consistency with the code was required at the time the Board or Executive Director acted to approve a project.



Mr. Waldie suggested it was unfair to an applicant who had invested money in the process to be advised initially that everything was in compliance and satisfactory, only to find after the lengthy review that the application was denied because the ordinance had changed. At a minimum TRPA should advise all applicants in the pipeline of potential amendments which may change a project's outcome.

Mr. Marshall summarized the Ninth Circuit Court 1984 determination regarding the fairness question. The court addressed environmental changes over time and the requirement for TRPA to make specific findings at the time it made its decisions. In 1984, TRPA attempted to grandfather a lot of projects under the old Regional Plan; the Ninth Circuit Court disallowed this and required project actions to be taken in accordance with the current plan. This was the legal precedent TRPA was working with. Staff had discussed how to work within its legal constraints to come up with a system to minimize processing time or to somehow address the fairness issue in another way.

While recognizing that the proposal could be denied based either on the density issue or the low income housing requirements, Mr. Smith agreed that there was an injustice done in the change over time caused by the low cost housing numbers.

Mr. Galloway explained that the Washoe County staff disagreed with the disqualification over density. Taken in the context of the TRPA ordinance, a reasonable interpretation was that the property should not be subdivided if it would create new very small parcels unless they were to be in a low cost housing area. This did not meet that situation, because the density already was at 21 units per acre. A higher density than what existed was not being created. If the only argument that remained was the low cost housing change, TRPA may have a liability and due notice issue. As he recalled, the Board's action to modify the ordinance was simply an update of housing costs to recognize inflation. HUD's figures were used, not the cost of living changes.

Ms. Shahri Masters, with Prudential Nevada Realty, on behalf of the applicant, suggested that the density concern should not apply, because the four units were built 45 years ago. The density rules should apply only to new development, not to something constructed prior to TRPA's existence. With regard to the low income levels, the economy had not grown enough to justify the change in the low income figures used by TRPA. The Agency should relook at the low income threshold and at its rules for advising the public of regulation and process amendments.

Mr. Hoffman commented on his reasons for not wishing to accept TRPA's proposed alternatives.

After more discussion, Mr. Singlaub commented on the fact that under TRPA's existing rules the Executive Director denial was appropriate. Several things needed fixing. The zoning in place on the property since 1972 was not a surprise; Washoe County and TRPA did not agree on the density in this particular Plan Area, but both agreed that they needed to work together to agree on density for this area. The basis for the density was coverage, and this building had been in noncompliance with TRPA zoning since 1972. TRPA as a rule took no action on these matters until an application was brought in for a change of some type. While there was no variance provision in the code, there should be some kind of relief, such as allowing the purchase of additional coverage. Coverage was the basis for the density restriction. This could be accomplished by a code amendment in the next few months. If the Board was uncomfortable with

using HUD figures in its low cost definitions, the Board could direct staff to come up with something that was more market based. Buildings adjacent to this project had been converted to condominiums. It was embarrassing that TRPA's web site information was out of date, and this would be corrected and would not happen again. Mr. Singlaub also commented on possible amendments to the review process to provide more coordination between the date applications were complete and final TRPA action. This would address the problem of changing code provisions during the review process.

Mr. Waldie suggested that TRPA was considerably responsible for what had happened in this case and had some duty to mitigate the damage it had caused. While the policy may be correct, everything in this record showed that Mr. Hoffman had acted in good conscience and was misled by TRPA's misinformation.

Mr. Swobe suggested that the Executive Director denial of the request was valid; Board approval could be viewed as a variance.

Mr. Singlaub agreed that approval of the request would be setting a precedent and was a concern. Another option was to work up a code change that allowed acquisition of coverage in order to grant the four-unit density. TRPA could defer action on the matter in order for staff to look at the low cost housing numbers and come back at a later meeting.

The Board members discussed possible options, problems with the low cost housing numbers, the correct application of current density standards, and the timing of possible code amendments. Mr. Marshall reminded the Board that the code clearly required an applicant to comply with density standards in subdivision of a structure.

MOTION by Mr. Swobe to continue the Hoffman appeal for two months.

Ms. Rochelle Nason, for the League to Save Lake Tahoe, noted she was not taking a position on this specific appeal but advised the Board that there was misinformation floating around on the issues being discussed. They were more complex than seen at first glance. Some of the proposed solutions were broad and far-reaching and could require extensive environmental documentation. If the inclination was that some kind of injustice was done here, she urged the Board to give direction to staff to craft the narrowest exception possible to permit what was being requested, without doing bizarre things to the density requirements. These had been in effect since the early 1970s. She urged the Board not to get into coverage, density, low cost, affordable housing and variance issues.

Mr. Swobe explained that his motion to continue the matter was for staff to come up with a recommendation back to the Board.

Mr. Slaven suggested that the Agency's web site should contain a disclaimer and include a provision for ensuring the latest information was available.

The motion carried unanimously.

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STAFF SUMMARY

Application Type: Appeal of Executive Director Denial of Subdivision Application

Appellant: Ancil Hoffman (“Mr. Hoffman” or “the appellant”)

Agency Staff: Melissa Shaw, AICP, Associate Planner  
Jordan Kahn, Assistant Agency Counsel

Location: 210 Robin Drive, Washoe County, NV  
Assessor’s Parcel Number 132-212-02

TRPA File: Number 20031159

Staff Recommendation: Staff recommends that the Governing Board deny the subject appeal and affirm the Executive Director’s determination. The required actions are set forth below.

Appeal Description: The appellant is appealing the denial of his application to subdivide an existing four-unit structure. After working unsuccessfully with Mr. Hoffman to arrive at a project that could be permitted, staff denied the application. Staff could not permit the project as proposed for the following independent reasons:

1. TRPA Density Standards. The TRPA Plan Area Statement in which the project is proposed allows 15 units per acre, or a total of two units for this project area (three with the density bonus). The proposed four-unit project density exceeds the allowed density.
2. Low Income Housing Requirements. Because the project meets the definition of low-income housing, its subdivision is not permitted unless mitigation is provided for each unit of low-income housing lost by the subdivision (see Attachment A, TRPA Code Section 43.2.B). There was no mitigation proposed for the loss of low cost housing with the subdivision application.

In issuing the denial, staff presented Mr. Hoffman with several alternatives, including the ability to subdivide three of the four units provided the three units are deed restricted for sale and rental to those earning low cost incomes. See Attachment B, TRPA staff denial dated October 2, 2003. Mr. Hoffman has chosen to pursue this appeal instead.

Background: On December 24, 2002, Mr. Hoffman applied to TRPA to subdivide an existing four-unit residential structure located in Plan Area Statement 046, Incline Village Residential (each unit consists of three bedrooms). The application was determined to be complete on April 30, 2003, and after staff review it was denied on October 2, 2003. A chronology of events illustrating the project history follows:

**Table 1  
Chronology of Events  
Hoffman Subdivision Application**

<b>Date</b>	<b>Event</b>	<b>Action</b>
November 16, 1966	Lake Haven III Condominium Plat Recorded in Washoe County	Original subdivision of subject parcel.
January 29, 1968	Lake Haven III Condominium Plat Reversion to Subdivision Lot Recorded in Washoe County	Reverted the subdivision to acreage.
August 21, 2002	Hoffman subdivision application submitted to TRPA, stamped in error at the counter, and returned to Mr. Hoffman because key items were missing (e.g. land capability verification).	No action. Application returned.
September 22, 2002	Effective date of new TRPA Code of Ordinances Low Income Housing Requirements (adopted by Governing Board on July 24, 2002)	New code requirements into effect.
October 29, 2002	Land Capability Verification complete.	Information to applicant.
November 26, 2002	TRPA Land Coverage Verification issued.	Information to applicant.
December 24, 2002	Application received by TRPA.	Submitted for 30-day project review.
January 14, 2003	Notice of Incomplete Application. Several items requested, including subdivision map.	Request for additional information deadline 2/14/03.
February 4, 2003	Second Notice of Incomplete Application.	Request for additional information deadline 2/28/03.
March 4, 2003	Applicant requested extension (via telephone) to extend deadline.	Deadline approved to 3/24/03
April 1, 2003	Applicant requested extension of incomplete deadline	Extension approved to April 30, 2003
April 30, 2003	Additional information submitted, including subdivision map with density information.	Application determined complete.
May 8, 2003	Mr. Hoffman informed that application complete.	Complete letter sent.
June 20, 2003	Washoe County Parcel Map Review Committee approves subdivision with conditions.	Washoe County approval, effective for 2 years.
July 2, 2003	Additional information submitted (May 2003 appraisal report).	Requested by TRPA to complete review.
September 5 and 25, 2003	Telephone call with applicant regarding density issue 9/5; met with applicant regarding density and low cost housing issues 9/25. Options discussed.	Meeting between staff and applicant to discuss issues.
October 2, 2003	Staff review complete and letter to applicant prepared.	Application denied.

Alternatives: TRPA staff presented Mr. Hoffman with the following alternatives to the denial that was ultimately issued:

- A. Reduce the density of the project to three units, and “bank” the fourth residential unit of use. The banked unit of use could be sold or used at another location to develop a low cost residential unit. The remaining units must be deed restricted as low-cost housing.
- B. Request an amendment to the Subdivision Standards of the TRPA Code of Ordinances to allow the conversion of existing structures to increase the density by more than 10 percent.
- C. Deed restrict all four units to affordable housing and then subdivide those units. The project is located in Plan Area Statement 046, Incline Village Residential, which has Special Designation as a preferred affordable housing location, and is eligible to receive bonus units under Chapter 35 of the TRPA Code of Ordinances Bonus Unit Incentive Program. If the project were deed restricted to affordable housing, there is a provision under Sec. 21.3.B of the TRPA Code where the project area density may be increased by 25 percent.

Additionally, under the Bonus Unit Incentive Program, bonus units could be assigned to the project for the affordable housing units, enabling the four existing low-cost housing units to be transferred to another location. By combining the provision for affordable housing density bonus (25%) with the 10% density increase allowed for subdivision of existing units, the requested four unit subdivision density would closely meet the required density. (The project area would need to be increased by an additional 129 square feet, potentially through the abandonment of a small right-of-way, for example.)

Bases for Appeal: Mr. Hoffman appeals each of the two independent reasons why TRPA denied his application. The TRPA rationale for each is set forth below, together with Mr. Hoffman’s arguments and TRPA’s responses thereto.

- I. TRPA Density Standards. Mr. Hoffman’s proposed subdivision does not meet the TRPA density standards for the Incline Village Plan Area Statement (15 units per acre) and was denied in part based on density. Density standards permitted in the Incline Village Residential Plan Area Statement is a maximum of 15 units per acre. Three units are permitted for this size project area under this density, summarized in Table 2. As proposed, the four-unit subdivision application exceeds the TRPA density standards. The applicant was informed that the project did not meet TRPA density standards after the project application was made complete.

**Table 2**

<b>Maximum Allowable Density for a Market-Rate Subdivision of an Existing Structure</b>	
Parcel Size (in square feet)	<b>8,319 square feet</b>
Parcel Size (in acres)	$8,319/43,560 = \mathbf{0.19097 \text{ acres}}$
Base Allowable Density (15 units/acre)	$0.19097 \text{ acres} \times 15 \text{ units per acre} = 2.86466 \text{ units (equal to } \mathbf{2 \text{ units}}$ after rounding)
Additional Density Allowed (10%)	$2.86466 \text{ units} \times 1.1 = 3.15114 \text{ units (equal to } \mathbf{3 \text{ units}}$ after rounding)

Mr. Hoffman obtained approval from Washoe County in June 2003 to subdivide the four-unit project. The County zoning, Medium Density Urban, allows 21 units per acre (as opposed to TRPA's density of 15 units per acre). TRPA and the County are independent jurisdictions with their own regulations concerning development. Although the Incline Village Community Plan ("IVCP") (adopted by the County) contains a uniform density standard, Mr. Hoffman's proposal is outside of the IVCP and within PAS 046, which has not been adopted by the County. Consequently, Mr. Hoffman must obtain approval from both jurisdictions after each independently applies its own regulations.

Mr. Hoffman's appeal of the density issue is based on his alleged reliance on oral and written representations by TRPA that he only had to comply with the County density standard. See Mr. Hoffman's Statement of Appeal, Attachment C at 1. TRPA disagrees, as no staff member ever provided such misinformation and the TRPA Subdivision of Existing Structures Information Packet speaks directly to the issue: "To subdivide a structure, the project area must comply with density requirements. The density requirements . . . are listed in Chapter 21 and Section 43.2.D of the TRPA Code of Ordinances, the applicable plan area statement or Community Plan."

Mr. Hoffman also contends that the density issue should have been identified earlier in the review process (within 30 days of its receipt on December 24, 2002). However, TRPA staff did not deem the application complete until having received the requisite density information from Mr. Hoffman on April 30, 2003. Prior to taking action on the subdivision, in September 2003, TRPA staff met with Mr. Hoffman specifically to address concerns regarding the density of his proposed subdivision.

- II. Low Income Housing Requirements. Based on a May 2003 appraisal submitted by Mr. Hoffman, TRPA staff determined that all four units in his project met the definition of low cost housing. Preservation of housing for those having low incomes is a goal of TRPA's Regional Plan (Chapter II: Land Use Element, Housing Sub-element, Goal # 1, Policy # 1), and is implemented through the TRPA Code of Ordinances. Subdivision of existing residential units that are low cost housing is not permitted unless mitigation is provided on a unit for unit basis for the loss of low cost housing. The original 1993 TRPA Low Cost Housing Ordinance employed the following definition:

[L]ow cost housing are residential units, which are sold or rented at prices and rates affordable to households or tenants that earn not more than 120 percent of the median income. Low cost housing units shall not include units with a per unit value greater than \$85,000 or units with a fair rental value greater than \$1,000 per month, as adjusted annually (TRPA Code Section 41.2.F (1993)).

In July 2002, the TRPA Governing Board amended the Low Cost Housing Ordinance. Effective September 22, 2002, TRPA defines low cost housing as follows:

[L]ow cost housing are residential units which are sold or rented at prices and rates affordable to households or tenants that earn not more than 120 percent of the applicable county median income. Low cost housing shall not include units with a rental rate that exceeds 30% of the tenant's monthly gross income, or sell at rates that exceed 2.5% [sic] times the gross annual household income. (TRPA Code Section 41.2.F (2002)).



Using this new Code definition, TRPA staff calculated the low cost housing rental and sales rates for Washoe County as follows:

- Low Cost Housing Annual Income Limit<sup>1</sup>:  $\$62,100 \times 120\% = \$74,520$
- Gross Monthly Income:  $\$74,520/12 = \$6,210$
- Low Cost Housing Max. Total Monthly Housing Cost<sup>2</sup>:  $\$6,210 \times 30\% = \mathbf{\$1,863}$
- Maximum Sales Rate per unit:  $\$74,520 \times 2.5\% = \$186,300$

The May 2003 appraisal submitted by Mr. Hoffman concluded that the monthly rental for each unit was estimated to be \$1,300. Because this rental value is less than the \$1,863 cap, Mr. Hoffman's subdivision application can only be approved if the units are mitigated, e.g. through a deed restricted to maintain their status as low cost housing.

Mr. Hoffman appeals the TRPA application of the low cost housing requirements to his project by arguing that the previous TRPA definition of low cost housing should have been used. Although application of the old definition would not have resulted in the determination that his units qualify as low cost housing (as the \$1,300 monthly rent is above the previous \$1,000 cap), TRPA staff properly employed the updated definition. TRPA applies the ordinances in effect when acting on project applications – the date of submission is irrelevant. Moreover, TRPA did not accept the application until December 2002, well after the new definition became effective (Mr. Hoffman's August 2002 submission was rejected because it was missing several critical items).

Mr. Hoffman further argues that the old low cost housing definition should have been applied to his project because that definition was set forth in the TRPA Subdivision of Existing Structures Information Packet and Checklist, even after the Low Cost Housing Ordinance was amended. TRPA agrees that the application packet was not timely updated to reflect the new definition, but this fact does not exempt applicants from having to comply with adopted regulations. The information packet was immediately updated after the oversight was brought to the attention of TRPA. Moreover, TRPA staff has adopted a protocol to ensure that new code language is reflected in the application materials in a timely manner.

Finally, Mr. Hoffman challenges the effectiveness of the new TRPA Low Cost Housing Ordinance. Using a series of calculations, Mr. Hoffman concludes that: "no one in their right mind would convert to low income housing." Attachment C at 2. Although TRPA staff takes issue with his calculations (which improperly equate monthly rent with the total housing cost that includes utilities), the application of an effective ordinance to a specific project is not an appropriate forum to revisit the debate over whether the ordinance should have been

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<sup>1</sup> Source: Median Family Income from Housing and Urban Development Home Program Income Limits for family of four, 2/2003, Reno MSA, Nevada. During discussions with Mr. Hoffman, TRPA staff based its maximum housing costs on a family of four. However, upon further review, TRPA staff has determined that a family of six is the more appropriate size because Mr. Hoffman's units each have three bedrooms. Using a family of six does not affect staff's designation of the units as low cost housing, but would enable Mr. Hoffman to obtain greater rental or sales values if he opts to deed restrict them as low cost housing. For a family of six, staff calculates the total monthly housing cost to be \$2,170 and the maximum sales rate to be \$217,000. These figures are calculated based on a family of six in Washoe County having a median income of \$72,333; the low-cost housing annual income limit is 86,800.

<sup>2</sup> The total monthly housing cost includes all utility expenses as well as rent. The limits above were based on a family size of four. The subject units, with three bedrooms, could accommodate a larger family size with a higher maximum total housing cost (based on median income for a family of six).

adopted in the first place. And in response to Mr. Hoffman's conclusion, TRPA staff notes that the purpose of the ordinance is to retain housing that meets the low cost definition, not to encourage the voluntary conversion of property to low cost housing.

Conclusion: TRPA staff properly applied the Subdivision Density requirements, and Low Cost Housing Ordinance to mitigate the loss of housing being rented at low cost rates. Staff recommends that the Governing Board deny the Mr. Hoffman's appeal and affirm the Executive Director's determination.

Required Actions: Agency staff recommends that the Governing Board deny the appeal by making the following motion based on this staff summary and evidence contained in the record:

A motion to approve the appeal, which motion should fail. (To approve the appeal, a 5/9 vote is required – five in the affirmative from Nevada.)

Attachments:

1. TRPA Code of Ordinances Section 43.2.B, Low Cost Housing requirements (2002)
2. TRPA letter dated October 2, 2003, denying Mr. Hoffman's subdivision application
3. Appellant's Statement of Appeal (with Exhibits)

Note: These attachments will not appear in the TRPA Governing Board packet. Each Governing Board member will receive a separate package including the exhibits. Members of the public wishing to view these attachments should contact Cherry Jacques, Project Review Division Executive Assistant, at (775) 588-4547 extension 277 or via e-mail at: [cjacques@trpa.org](mailto:cjacques@trpa.org).



TAHOE REGIONAL PLANNING AGENCY  
ORDINANCE 2004 –

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; AMENDING CODE OF ORDINANCES, CHAPTER 43, SUBDIVISION STANDARDS TO EXEMPT THE SUBDIVISION OF EXISTING STRUCTURES PREVIOUSLY SUBDIVIDED FROM DENSITY (43.2.B) AND LOW COST HOUSING (43.2.D) REQUIREMENTS AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

The Governing Board of the Tahoe Regional Planning Agency does ordain as follows:

Section 1.00

Findings

- 1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending the Code of Ordinances Chapter 43 in order to further implement the Regional Plan pursuant to Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact.
- 1.20 These amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirements of an environmental impact statement pursuant to Article VII of the Compact.
- 1.30 The Advisory Planning Commission (APC) has conducted a public hearing on the amendments and recommended adoption. The Governing Board has also conducted a noticed public hearing on the amendments. At those hearings, oral testimony and documentary evidence were received and considered.
- 1.40 Prior to the adoption of this ordinance, the Governing Board made the findings required by Chapter 6 of the Code and Article V(g) of the Compact,
- 1.50 The Governing Board finds that the amendments adopted here will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental threshold carrying capacities as required by Article V(c) of the Compact.
- 1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00

Amendment of the Code of Ordinances, Chapter 43

Subsection 6.10, subparagraph (28) of Ordinance No. 87-9, as amended, is hereby further amended as set forth below:

- 43.2.B Low Cost Housing: Existing residential units which are low cost housing, as defined by 41.2.F, shall not be subdivided unless mitigation is provided on a unit by unit bases for the loss of low cost housing. Mitigation shall be in the form of construction of an equal number of low cost units, conversion of other structures to low cost housing, restriction of subdivided units to low cost housing units, or a combination of the above.  
Existing attached multi-family structures legally subdivided prior to February 10, 1972 shall be exempt from this provision, provided, that the newly subdivided units remain attached.
- 43.2.D Density: Subdivision of existing structures which exceed the density standards in Chapter 21, or the applicable plan area statement, by more than 10 percent shall not be permitted. Existing attached multi-family structures legally subdivided prior to February 10, 1972 shall be exempt from this provision, provided, that the newly subdivided units remain attached.

Section 3.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the Code of Ordinances adopted hereby shall be liberally construed to effect their purposes. If any section, clause, provision or portion thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and the amendments to the Code of Ordinances shall not be affected thereby. For this purpose, the provisions of this ordinance and the amendments to the Code of Ordinances are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this ordinance amending the Code of Ordinances shall be effective 60 days after its adoption.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held March 24, 2004, by the following vote:

Ayes:

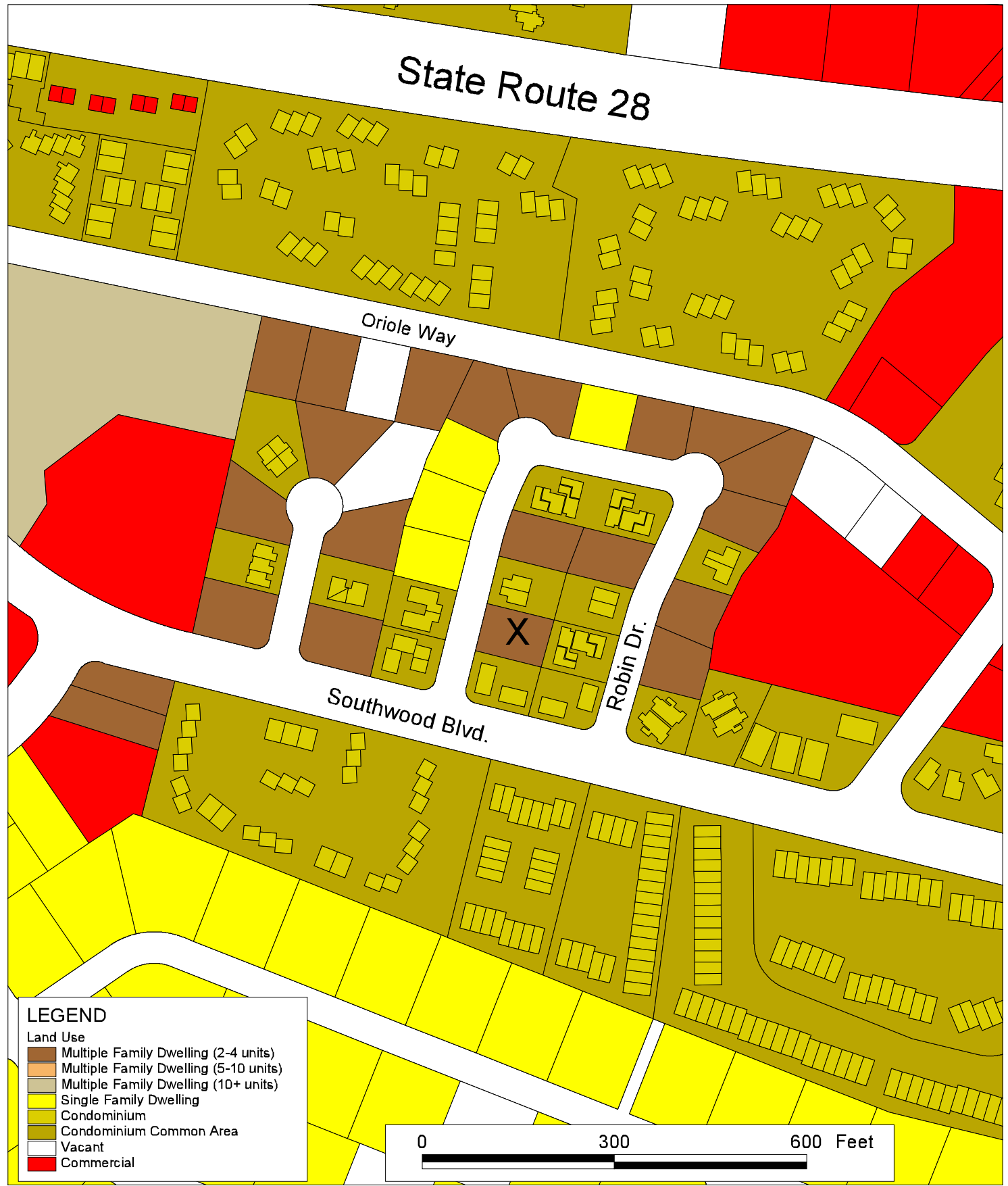
Nays:

Abstentions:

Absent

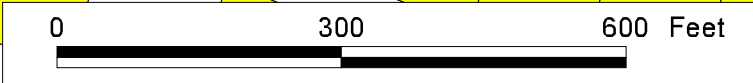
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David Solaro, Chairman  
Tahoe Regional Planning Agency



**LEGEND**

- Land Use
- Multiple Family Dwelling (2-4 units)
  - Multiple Family Dwelling (5-10 units)
  - Multiple Family Dwelling (10+ units)
  - Single Family Dwelling
  - Condominium
  - Condominium Common Area
  - Vacant
  - Commercial





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## MEMORANDUM

March 11, 2004

To: Governing Board

From: Melissa Shaw, AICP  
Project Review Division

Subject: March Governing Board Item: Ancil Hoffman Appeal, Continued from  
January Board Hearing

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This item was continued from the January 2004 Hearing. The attached staff summary is identical to the report presented to the Board in January with the following changes:

- The Washoe County Median Income Limits were updated with 2004 HUD data and the corresponding Total Monthly Housing Cost and Maximum Sales Rate per unit were updated as well. This information appears on pages 4 and 5 of the staff summary.
- The attachments listed on page 6 were distributed for the January Hearing and will not be included with the March Hearing packet. The attachments are available upon request and will be available at the Hearing. Please contact Melissa Shaw (775-588-4547, ext. 245) to request attachment copies.

# TAHOE REGIONAL PLANNING AGENCY

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## TAHOE REGIONAL PLANNING AGENCY STAFF SUMMARY

Application Type: Appeal of Executive Director Denial of Subdivision Application

Appellant: Ancil Hoffman ("Mr. Hoffman" or "the appellant")

Agency Staff: Melissa Shaw, AICP, Associate Planner  
Jordan Kahn, Assistant Agency Counsel

Location: 210 Robin Drive, Washoe County, NV  
Assessor's Parcel Number 132-212-02

TRPA File: Number 20031159

Staff Recommendation: Staff recommends that the Governing Board deny the subject appeal and affirm the Executive Director's determination. The required actions are set forth below.

Appeal Description: *This item was continued from the January 2004 Governing Board meeting.* The appellant is appealing the denial of his application to subdivide an existing four-unit structure. After working unsuccessfully with Mr. Hoffman to arrive at a project that could be permitted, staff denied the application. Staff could not permit the project as proposed for the following independent reasons:

1. TRPA Density Standards. The TRPA Plan Area Statement in which the project is proposed allows 15 units per acre, or a total of two units for this project area (three with the density bonus). The proposed four-unit project density exceeds the allowed density.
2. Low Income Housing Requirements. Because the project meets the definition of low-income housing, its subdivision is not permitted unless mitigation is provided for each unit of low-income housing lost by the subdivision (see Attachment A, TRPA Code Section 43.2.B). There was no mitigation proposed for the loss of low cost housing with the subdivision application.

In issuing the denial, staff presented Mr. Hoffman with several alternatives, including the ability to subdivide three of the four units provided the three units are deed restricted for sale and rental to those earning low cost incomes. See Attachment B, TRPA staff denial dated October 2, 2003. Mr. Hoffman has chosen to pursue this appeal instead.

Background: On December 24, 2002, Mr. Hoffman applied to TRPA to subdivide an existing four-unit residential structure located in Plan Area Statement 046, Incline Village Residential (each unit consists of three bedrooms). The application was determined to be complete on April 30, 2003, and after staff review it was denied on October 2, 2003. A chronology of events illustrating the project history follows:

3/24/04  
MS

AGENDA ITEM XIII.A.

**Table 1  
Chronology of Events  
Hoffman Subdivision Application**

<b>Date</b>	<b>Event</b>	<b>Action</b>
November 16, 1966	Lake Haven III Condominium Plat Recorded in Washoe County	Original subdivision of subject parcel.
January 29, 1968	Lake Haven III Condominium Plat Reversion to Subdivision Lot Recorded in Washoe County	Reverted the subdivision to acreage.
August 21, 2002	Hoffman subdivision application submitted to TRPA, stamped in error at the counter, and returned to Mr. Hoffman because key items were missing (e.g. land capability verification).	No action. Application returned.
September 22, 2002	Effective date of new TRPA Code of Ordinances Low Income Housing Requirements (adopted by Governing Board on July 24, 2002)	New code requirements into effect.
October 29, 2002	Land Capability Verification complete.	Information to applicant.
November 26, 2002	TRPA Land Coverage Verification issued.	Information to applicant.
December 24, 2002	Application received by TRPA.	Submitted for 30-day project review.
January 14, 2003	Notice of Incomplete Application. Several items requested, including subdivision map.	Request for additional information deadline 2/14/03.
February 4, 2003	Second Notice of Incomplete Application.	Request for additional information deadline 2/28/03.
March 4, 2003	Applicant requested extension (via telephone) to extend deadline.	Deadline approved to 3/24/03
April 1, 2003	Applicant requested extension of incomplete deadline	Extension approved to April 30, 2003
April 30, 2003	Additional information submitted, including subdivision map with density information.	Application determined complete.
May 8, 2003	Mr. Hoffman informed that application complete.	Complete letter sent.
June 20, 2003	Washoe County Parcel Map Review Committee approves subdivision with conditions.	Washoe County approval, effective for 2 years.
July 2, 2003	Additional information submitted (May 2003 appraisal report).	Requested by TRPA to complete review.
September 5 and 25, 2003	Telephone call with applicant regarding density issue 9/5; met with applicant regarding density and low cost housing issues 9/25. Options discussed.	Meeting between staff and applicant to discuss issues.
October 2, 2003	Staff review complete and letter to applicant prepared.	Application denied.

Alternatives: TRPA staff presented Mr. Hoffman with the following alternatives to the denial that was ultimately issued:

- A. Reduce the density of the project to three units, and “bank” the fourth residential unit of use. The banked unit of use could be sold or used at another location to develop a low cost residential unit. The remaining units must be deed restricted as low-cost housing.
- B. Request an amendment to the Subdivision Standards of the TRPA Code of Ordinances to allow the conversion of existing structures to increase the density by more than 10 percent.
- C. Deed restrict all four units to affordable housing and then subdivide those units. The project is located in Plan Area Statement 046, Incline Village Residential, which has Special Designation as a preferred affordable housing location, and is eligible to receive bonus units under Chapter 35 of the TRPA Code of Ordinances Bonus Unit Incentive Program. If the project were deed restricted to affordable housing, there is a provision under Sec. 21.3.B of the TRPA Code where the project area density may be increased by 25 percent.

Additionally, under the Bonus Unit Incentive Program, bonus units could be assigned to the project for the affordable housing units, enabling the four existing low-cost housing units to be transferred to another location. By combining the provision for affordable housing density bonus (25%) with the 10% density increase allowed for subdivision of existing units, the requested four unit subdivision density would closely meet the required density. (The project area would need to be increased by an additional 129 square feet, potentially through the abandonment of a small right-of-way, for example.)

Bases for Appeal: Mr. Hoffman appeals each of the two independent reasons why TRPA denied his application. The TRPA rationale for each is set forth below, together with Mr. Hoffman’s arguments and TRPA’s responses thereto.

- I. TRPA Density Standards. Mr. Hoffman’s proposed subdivision does not meet the TRPA density standards for the Incline Village Plan Area Statement (15 units per acre) and was denied in part based on density. Density standards permitted in the Incline Village Residential Plan Area Statement is a maximum of 15 units per acre. Three units are permitted for this size project area under this density, summarized in Table 2. As proposed, the four-unit subdivision application exceeds the TRPA density standards. The applicant was informed that the project did not meet TRPA density standards after the project application was made complete.

**Table 2**

<b>Maximum Allowable Density for a Market-Rate Subdivision of an Existing Structure</b>	
Parcel Size (in square feet)	<b>8,319 square feet</b>
Parcel Size (in acres)	8,319/43,560 = <b>0.19097 acres</b>
Base Allowable Density (15 units/acre)	0.19097 acres x 15 units per acre = 2.86466 units (equal to <b>2 units</b> after rounding)
Additional Density Allowed (10%)	2.86466 units x 1.1 = 3.15114 units (equal to <b>3 units</b> after rounding)

Mr. Hoffman obtained approval from Washoe County in June 2003 to subdivide the four-unit project. The County zoning, Medium Density Urban, allows 21 units per acre (as



opposed to TRPA's density of 15 units per acre). TRPA and the County are independent jurisdictions with their own regulations concerning development. Although the Incline Village Community Plan ("IVCP") (adopted by the County) contains a uniform density standard, Mr. Hoffman's proposal is outside of the IVCP and within PAS 046, which has not been adopted by the County. Consequently, Mr. Hoffman must obtain approval from both jurisdictions after each independently applies its own regulations.

Mr. Hoffman's appeal of the density issue is based on his alleged reliance on oral and written representations by TRPA that he only had to comply with the County density standard. See Mr. Hoffman's Statement of Appeal, Attachment C at 1. TRPA disagrees, as no staff member ever provided such misinformation and the TRPA Subdivision of Existing Structures Information Packet speaks directly to the issue: "To subdivide a structure, the project area must comply with density requirements. The density requirements . . . are listed in Chapter 21 and Section 43.2.D of the TRPA Code of Ordinances, the applicable plan area statement or Community Plan."

Mr. Hoffman also contends that the density issue should have been identified earlier in the review process (within 30 days of its receipt on December 24, 2002). However, TRPA staff did not deem the application complete until having received the requisite density information from Mr. Hoffman on April 30, 2003. Prior to taking action on the subdivision, in September 2003, TRPA staff met with Mr. Hoffman specifically to address concerns regarding the density of his proposed subdivision.

- II. Low Income Housing Requirements. Based on a May 2003 appraisal submitted by Mr. Hoffman, TRPA staff determined that all four units in his project met the definition of low cost housing. Preservation of housing for those having low incomes is a goal of TRPA's Regional Plan (Chapter II: Land Use Element, Housing Sub-element, Goal # 1, Policy # 1), and is implemented through the TRPA Code of Ordinances. Subdivision of existing residential units that are low cost housing is not permitted unless mitigation is provided on a unit for unit basis for the loss of low cost housing. The original 1993 TRPA Low Cost Housing Ordinance employed the following definition:

[L]ow cost housing are residential units, which are sold or rented at prices and rates affordable to households or tenants that earn not more than 120 percent of the median income. Low cost housing units shall not include units with a per unit value greater than \$85,000 or units with a fair rental value greater than \$1,000 per month, as adjusted annually (TRPA Code Section 41.2.F (1993)).

In July 2002, the TRPA Governing Board amended the Low Cost Housing Ordinance. Effective September 22, 2002, TRPA defines low cost housing as follows:

[L]ow cost housing are residential units which are sold or rented at prices and rates affordable to households or tenants that earn not more than 120 percent of the applicable county median income. Low cost housing shall not include units with a rental rate that exceeds 30% of the tenant's monthly gross income, or sell at rates that exceed 2.5% [sic] times the gross annual household income. (TRPA Code Section 41.2.F (2002)).

Using this new Code definition, TRPA staff calculated the low cost housing rental and sales rates for Washoe County. The following information was presented to the Governing Board in January, 2004, *based on a family size of four* and February, 2003 Washoe County median income data:

- Low Cost Housing Annual Income Limit<sup>1</sup>:  $\$62,100 \times 120\% = \$74,520$
- Gross Monthly Income:  $\$74,520/12 = \$6,210$
- Low Cost Housing Max. Total Monthly Housing Cost<sup>2</sup>:  $\$6,210 \times 30\% = \mathbf{\$1,863}$
- Maximum Sales Rate per unit:  $\$74,520 \times 2.5 = \mathbf{\$186,300}$

In February 2004, the U.S. Department of Housing and Urban Development updated the median income limits. Based on 2004 Washoe County median income limits, TRPA staff calculated the low cost housing information for Mr. Hoffman's property *based on a family of six* because each of the four units contain three bedrooms and may accommodate a family size of six. The 2004 updated medial income information for a family of six in Washoe County is as follows:

- Low Cost Housing Annual Income Limit:  $\$73,312 \times 120\% = \$87,974$
- Gross Monthly Income:  $\$87,974/12 = \$6,210$
- Low Cost Housing Max. Total Monthly Housing Cost:  $\$7,331 \times 30\% = \mathbf{\$2,199}$
- Maximum Sales Rate per unit:  $\$87,974 \times 2.5 = \mathbf{\$219,935}$

The May 2003 appraisal submitted by Mr. Hoffman concluded that the monthly rental for each unit was estimated to be \$1,300. Because this rental value is less than the \$1,863 cap, Mr. Hoffman's subdivision application can only be approved if the units are mitigated, e.g. through a deed restricted to maintain their status as low cost housing.

Mr. Hoffman appeals the TRPA application of the low cost housing requirements to his project by arguing that the previous TRPA definition of low cost housing should have been used. Although application of the old definition would not have resulted in the determination that his units qualify as low cost housing (as the \$1,300 monthly rent is above the previous \$1,000 cap), TRPA staff properly employed the updated definition. TRPA applies the ordinances in effect when acting on project applications – the date of submission is irrelevant. Moreover, TRPA did not accept the application until December

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<sup>1</sup> Source: Median Family Income from Housing and Urban Development Home Program Income Limits for family of four, 2/2003, Reno MSA, Nevada. During discussions with Mr. Hoffman, TRPA staff based its maximum housing costs on a family of four. However, upon further review, TRPA staff has determined that a family of six is the more appropriate size because Mr. Hoffman's units each have three bedrooms. Using a family of six does not affect staff's designation of the units as low cost housing, but would enable Mr. Hoffman to obtain greater rental or sales values if he opts to deed restrict them as low cost housing. For a family of six, staff calculates the total monthly housing cost to be \$2,170 and the maximum sales rate to be \$217,000. These figures are calculated based on a family of six in Washoe County having a median income of \$72,333; the low-cost housing annual income limit is 86,800.

<sup>2</sup> The total monthly housing cost includes all utility expenses as well as rent. The limits above were based on a family size of four. The subject units, with three bedrooms, could accommodate a larger family size with a higher maximum total housing cost (based on median income for a family of six).

2002, well after the new definition became effective (Mr. Hoffman's August 2002 submission was rejected because it was missing several critical items).

Mr. Hoffman further argues that the old low cost housing definition should have been applied to his project because that definition was set forth in the TRPA Subdivision of Existing Structures Information Packet and Checklist, even after the Low Cost Housing Ordinance was amended. TRPA agrees that the application packet was not timely updated to reflect the new definition, but this fact does not exempt applicants from having to comply with adopted regulations. The information packet was immediately updated after the oversight was brought to the attention of TRPA. Moreover, TRPA staff has adopted a protocol to ensure that new code language is reflected in the application materials in a timely manner.

Finally, Mr. Hoffman challenges the effectiveness of the new TRPA Low Cost Housing Ordinance. Using a series of calculations, Mr. Hoffman concludes that: "no one in their right mind would convert to low income housing." Attachment C at 2. Although TRPA staff takes issue with his calculations (which improperly equate monthly rent with the total housing cost that includes utilities), the application of an effective ordinance to a specific project is not an appropriate forum to revisit the debate over whether the ordinance should have been adopted in the first place. And in response to Mr. Hoffman's conclusion, TRPA staff notes that the purpose of the ordinance is to retain housing that meets the low cost definition, not to encourage the voluntary conversion of property to low cost housing.

Conclusion: TRPA staff properly applied the Subdivision Density requirements, and Low Cost Housing Ordinance to mitigate the loss of housing being rented at low cost rates. Staff recommends that the Governing Board deny Mr. Hoffman's appeal and affirm the Executive Director's determination.

Required Actions: Agency staff recommends that the Governing Board deny the appeal by making the following motion based on this staff summary and evidence contained in the record:

A motion to approve the appeal, which motion should fail. (To approve the appeal, a 5/9 vote is required – five in the affirmative from Nevada.)

Attachments (provided with the January 2004 Governing Board packet):

1. TRPA Code of Ordinances Section 43.2.B, Low Cost Housing requirements (2002)
2. TRPA letter dated October 2, 2003, denying Mr. Hoffman's subdivision application
3. Appellant's Statement of Appeal (with Exhibits)

Note: These attachments will not appear in the TRPA Governing Board packet. Attachments will be available during the meeting and upon request. Members of the public wishing to view these attachments should contact Cherry Jacques, Project Review Division Executive Assistant, at (775) 588-4547 extension 277 or via e-mail at: [cjacques@trpa.org](mailto:cjacques@trpa.org).



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### MEMORANDUM

March 16, 2004

To: TRPA Governing Board Members

From: TRPA Executive Director

Subject: Consideration of Action on Proposed Public Safety Policy

The attached package has been submitted by Board Member Jim Galloway for your consideration on Agenda Item No. XM.A.

The only addition to Mr. Galloway's submission is the inclusion of the February 18, 2004, letter responding to Mr. Norman Rosenberg's inquiry to Senator Reid. Mr. Rosenberg's letter, Senator Reid's response, and TRPA's response to Mr. Rosenberg are now all included in Attachment 3 of this package.

My recommendation to the Governing Board was included in the February Governing Board packet, which is included as Attachment 2 in this agenda item package.

Attachments

## MEMORANDUM

To: TRPA Governing Board  
From: Board Member Jim Galloway  
Subject: March 24, 2005 Board Item On TRPA Public Safety Policy

### BACKGROUND

#### January Meeting, 2004

An action on Public Safety subject was originally requested by Board member Jim Galloway and was placed on the January Governing Board agenda. At that time, the proposal was that the Board adopt a specific policy statement to clarify the role of public safety in TRPA ordinances and actions. He further proposed that similar language to permanently document this policy be incorporated into the TRPA Goals and Policies. The proposed wording was:

*“The TRPA Governing Board hereby affirms, as a matter of policy, that the maintenance of public safety is implicit in all that TRPA does, including the attainment of thresholds, and that no action or ordinance of TRPA may have the effect of diminishing public safety.”*

This item did not come before the Board until very late in the day, when both time and Board energy were in limited supply. There was a brief introduction by member Galloway to the effect that Tahoe Basin residents had been receiving mixed messages from staff as to whether or not public safety was even considered by TRPA as it passed ordinances and took other actions intended to achieve its thresholds. This had raised serious concerns among the public. Since he believed that both morally and legally TRPA was obliged to make sure that its own actions and ordinances did not inadvertently diminish public safety Mr. Galloway had submitted the proposed language both to reassure the public and to fill the policy void. At that point, some staff and some board members expressed concerns about the specific wording proposed. For example Mr. Slaven was concerned that there might be unintended consequences such as a project denial because of some perceived negative effect on public safety. Because he too did not want any unintended consequences of that nature, Mr. Galloway stated that he was not locked into the exact wording so long as the intent was accomplished. He therefore agreed with the suggestion of the Chairman and some other Board members that the matter be referred to the Director who would then work with Mr. Galloway and hopefully bring back specific proposals in February that were acceptable to both Mr. Galloway and staff. The matter was therefore continued until February.

#### February Meeting, 2004:

On Feb. 13, Director Singlaub faxed to Mr. Galloway a message (**Attachment 1**) that a number of proposals, prepared by the Director with legal staff assistance, would be presented at the Feb. meeting, and that at least one of these was intended to capture member Galloway's original intent. Unfortunately, this fax was sent at the start of the three-day President's day weekend. As a result, the new staff proposals were not even seen by Mr. Galloway until the following week, by which time it was apparently too late to change the Board agenda package. As a further

result, what was actually a staff-written change to the Goals and Policies (a regional plan amendment) was incorrectly attributed to Mr. Galloway. It read as follows:

*“TRPA is a regional planning and regulatory authority, not a provider of public health and safety services. In the review and approval process of projects proposed in the region, TRPA will consider the implications to public health and safety. Nothing TRPA does is intended to diminish the role of public health and safety agencies or to increase the safety risk to visitors or residents.” [underline by JG]*

Unfortunately, even though Mr. Galloway agrees that TRPA should not act as a “public safety agency,” the above language contains content that staff should have known was not acceptable to Mr. Galloway and is actually contrary in his January proposal. In a noon telephone conversation on Thursday Feb 19 Mr. Galloway strongly expressed specific objections to Director Singlaub:

1. The staff-proposed wording actually drops the original specific requirements that TRPA itself, in its own actions and its own ordinances, must make sure that these do not diminish public safety.
2. The staff-proposed wording adds a TRPA safety review of projects. Ironically, this would have the exact unintended consequences that Mr. Slaven had mentioned in the January meeting. If in fact TRPA is “not a provider of public health and safety services” then TRPA policy for approving projects should be to defer to those other public health and safety agencies in the areas in which they already have jurisdiction – specifically to the local government building departments, the local fire agencies, local health departments, etc. These agencies already review projects.

It is also ironic that the staff-proposed public-safety review of projects even caused Mr. Galloway to be publicly criticized by another Board member, who did not know that this proposal actually came from staff and was opposed by Mr. Galloway.

On Feb. 19 staff Director Singlaub faxed Mr. Galloway a memo dated Feb 17 (**Attachment 2**), that contained the wording for two other staff-proposed action alternatives. In neither of these alternatives would there be any amendment to the goals and policies. In one of these staff alternatives the Board would simply give direction and in the other the Board would pass a resolution. Both the proposed direction and the draft resolution have the same problems (1 and 2 as described above) that were present in the staff’s version of the goals and policies amendment.

First, neither the direction nor the resolution proposed by staff call for TRPA to make sure, by findings or otherwise, that TRPA’s own actions and ordinances do not diminish public safety.

Second, both the staff-proposed direction and the staff-proposed resolution add a requirement for TRPA review of projects for safety impacts, rather than deferring such safety review to the findings of the existing cognizant local and state agencies.

**February item continued:** In view of all the problems described above, Member Galloway requested that the entire item be continued until March, so that he could put in writing one or more proposals that: (a) did reflect the original intentions, (b) also address related issues that have been raised, and that hopefully will (c) be acceptable to the Governing Board. Both the Director and the Chairman favored the continuance, and it was approved by unanimous vote of the Governing Board on Feb. 25.



## MARCH 2004: REVISED PROPOSAL AND DISCUSSION

### Discussion:

TRPA has a large Regional Plan, including Goals and Policies, and a voluminous code of Ordinances concerned with the attainment of nine thresholds. Yet very little, in fact almost nothing, in these documents deals with the vital issues of public safety.

We at TRPA have always taken great care that attainment of one threshold should not significantly adversely affect another threshold. Why then, should there not also be provisions to ensure that TRPA efforts toward threshold attainment should not significantly diminish public safety? From the TRPA Compact it is certainly reasonable to conclude, from its charge to maintain equilibrium between the man made and natural environments, and from Article 1(a)(8), that neither the US Congress nor the California and Nevada Legislatures would have approved the Compact if they thought that TRPA action could be allowed to diminish the levels of public safety.

Article 1(a)(8) reads:

*“(8). Responsibilities for providing recreational and scientific opportunities, preserving scenic and natural areas, and safeguarding the public who live, work and play in or visit the region are divided among local government, regional agencies, the states of California and Nevada, and the Federal Government.”*

Out of concern for possible unintended consequences and because public safety is regarded by many as such a fundamental issue, it is not proposed here that public safety be added as a threshold. Instead it is proposed that this issue be addressed in the Goals and Policies, and then also as necessary elsewhere to implement the new policy statement.

In the past many persons may have regarded our TRPA public safety obligations as implicit – but that is not the same as, and not as good as, having more explicit provisions in the goals and policies, procedures and the code of ordinances where appropriate. Only those explicit statements will give documented assurances and act as real limitations to future TRPA actions that might otherwise, inadvertently but significantly, diminish public safety. These policies and their implementing provisions will ensure that there is at least a proper public process to change them if they should conflict down the road with future actions of TRPA staff or with desires of some future Board.

Also, mixed messages from TRPA staff, coupled with the acknowledged high fire danger in the Tahoe Basin have renewed public concern over safety matters at the grass-roots citizen level. This is evident from public discussions, from recent news reports and, as an additional example, from a letter that was sent by a local citizen, Norman Rosenberg, to Congressman Jim Gibbons and Senators John Ensign and Harry Reid (see Attachment 3).



Now, therefore, is the time to put something on the record and in our governing documents that the Public can rely on. There is nothing wrong with doing that – it follows the model of state, federal and constitutional law. If matters of this importance are to be handled in some lesser informal manner then why do we need and have all the other ordinances and policies on the books for matters less fundamental?

Please reflect also upon what we the Governing Board appear to be saying if we do not adopt written formal policy or code on this subject. We would sending the message, by inaction, that ordinances or actions by TRPA in the name of threshold attainment may in fact be allowed to diminish public safety in significant ways. We must not send such a negative message.

Some may argue that no policy, procedure or ordinance changes are needed because there has never been any practical problem -- that TRPA has never inadvertently passed an ordinance or taken planning or regulatory action that has significantly diminished public safety — not so! In fact, the long-standing excessive prohibitions against the use of mechanical equipment to remove excess fuels in stream environment zones are an example of an ordinance inadvertently diminishing public safety in a significant way. The TRPA Governing Board has already taken responsible action to amend that ordinance and in the corresponding provisions in the water quality 208 plan. That was the correct and responsible thing to do because TRPA never intended to create such a significant conflict with public safety. When such a conflict does occur then either the ordinance needs to be amended to eliminate the conflict or there needs to be some compensating action or ordinance to mitigate the negative effects. The proposals made in this memorandum would merely clarify how public safety is properly considered, and provide a formal basis for what we have already done in the case of the SEZ's. As to other planning or regulatory action, the Board is undoubtedly aware that occasionally some staff decisions on tree removal or BMP implementation have been contrary to the judgment of local fire or building safety professionals. In such cases the response is often "staff is not doing it that way any more." Again, the reason staff interpretations have changed in those cases is a policy reason – and that policy should be formalized.

For the above stated reasons a mere direction to staff or even a well-intended resolution is inadequate to address such an important matter a public safety. The author proposes that the TRPA Governing Board endorse the stronger actions proposed below, and that if staff is directed to change any wording from what is proposed herein the Board is requested to also direct that the intent and effect not be changed, as unfortunately occurred with the January proposal.

If the Board decides, contrary to this recommendation, to take one of the lesser staff-proposed actions of Board direction or a resolution, then the author requests that the proposed by staff in February be amended to: (1) change the statements on TRPA project safety review and approval to one that says that in respect to projects TRPA will rely on, and defer to, the normal reviews of those local, state and federal public safety agencies already having jurisdiction, and (2) include a statement that in regard to its own planning or regulatory actions, and in regard to its own passage of ordinances, TRPA will not take action or pass ordinances that have the net effect of diminishing public safety.

Should the Board decide to take such a lesser action as a resolution or mere direction to staff, the author proposes wording for such actions in **Attachment 4**. Again, the author does not recommend such lesser actions.

**PROPOSED ACTION:**

**Direct staff to proceed with the process of amending the Goals and Policies to include the following statements, and with amending the Procedures, Regional Plan and Ordinances of TRPA as appropriate to implement those policies.**

Since it has been argued in one of our recent court cases that preambles, even the preamble to the TRPA Compact, does not have the same legal weight as the rest of the document, it is recommended that all of these items be appropriately placed in the body of the Goals and Policies.

***Principle: The TRPA role in public safety:***

*TRPA is a regional planning and regulatory agency, not a public safety agency as such. Therefore Pursuant to Article 1(a)(8) of the Compact, the Agency will rely on and defer to the review and approval of other agencies where those responsibilities expertise and authority are already established in the Tahoe Basin. TRPA is cognizant that its own planning or regulatory actions and ordinances may impact public safety and TRPA policy shall be that no such action or ordinance shall have the effect of significantly diminishing public safety.*

***Policy on Project Review and Approval***

*In reviewing and approving of projects the Agency shall not conduct its own separate public safety review but rely on and defer to, in matters relating to public safety, the judgment, determinations, and adopted regulatory provisions of other local, regional State and Federal agencies that have established expertise and authority within the Tahoe Basin for safety-related project review and approval.*

***Policy on TRPA ordinances and planning or regulatory actions:***

*The maintenance of public safety is implicit in all that TRPA does, including the attainment of thresholds. Therefore no ordinance or other planning or regulatory action of the Governing Board or TRPA staff shall have the effect of significantly diminishing public safety. Further, TRPA shall provide that in the adoption of any ordinance the Governing Board must make a finding that "the ordinance has no significant detrimental effect on public safety." Further, in taking other planning or regulatory action the Governing Board must make a finding that "the action has no significant detrimental effect on public safety." Further, that TRPA shall implement this policy as necessary and where appropriate through amendment to its procedures, regional plan and its code of ordinances.*

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If the Governing Board finds the language of this revised proposal to be too lengthy then an alternative would be to adopt the language as originally proposed in January. However a comparison with the wording of the US Constitution suggests that the word "may" in that text should be replaced with "shall".

Respectfully submitted March 2004.  
Jim Galloway, Member  
TRPA Governing Board

**Attachments**

- 1) Feb 13 fax from John Singlaub to Jim Galloway with altered Goals and policy language.
- 2) Feb 17 staff memo signed by John Singlaub with two other action alternatives
- 3) Text of Letter from Norman Rosenberg to Congressional officials w/other news clips and items if available)
- 4) Draft by Jim Galloway for possible lesser actions (Board direction or Resolution).

Fax message

Page 1 OF 1

To: Jim Galloway

From: John Singlaub  
775-588-4547  
775-588-4527 (fax)

Date: 2/13/04

Re: Public Health and Safety policy for TRPA Governing Board consideration

Jim-

I will be proposing four alternatives to the Governing Board on resolving the public health and safety issue. I want to be sure that I capture your precise intent in at least one of those alternatives.

As I understand it, the alternative that you are proposing would require an amendment to the Regional Plan. At the February Board meeting, this would require the Board to direct staff to undertake the necessary steps to incorporate the policy into the Regional Plan (21-day notice, APC public hearing, and Governing Board hearing in March). This would be the suggested language of the policy:

"TRPA is a regional planning and regulatory authority, not a provider of public health and safety services. In the review and approval process of projects proposed in the region, TRPA will consider the implications to public health and safety. Nothing TRPA does is intended to diminish the role of public health and safety agencies or to increase the safety risk to visitors or residents."

Does this sound like what you wanted? Feel free to wordsmith this to exactly what you would like the Board to consider.

Thanks.  
-John



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email: [trpa@trpa.org](mailto:trpa@trpa.org) web site: [www.trpa.org](http://www.trpa.org)

# Fax

To:	Jim Galloway	From:	John Singlaub
Fax:	775-329-1651	Pages:	6
Phone:		Date:	2/17/2004
Ro:		CC:	

Urgent     For Review     Please Comment     Please Reply     Please Recycle

• Comments:

This is the letter I included in the Governing Board packet with a proposed change to the language you proposed. Let me know if the changed language works for you.  
Thanks.

**TAHOE REGIONAL PLANNING AGENCY**

120 Market Street  
Stateline, Nevada  
www.trpa.org

P.O.Box 5310  
Stateline, Nevada 89449-5310

Phone: (775) 588-4547  
Fax (775) 588-4527  
Email: trpa@trpa.org

**MEMORANDUM**

To: TRPA Governing Board  
TRPA Staff

From: John O. Singlaub, Executive Director

Date: February 17, 2004

Subject: Public Safety

---

**Introduction**

The Tahoe Regional Planning Agency exists to protect and enhance the Lake Tahoe experience. In order to enjoy the beauty of Lake Tahoe and its many recreational opportunities, the public must be provided with a safe environment. Recently, questions have arisen as to how TRPA integrates public safety concerns when it conducts its business. This memorandum provides my direction to staff as to how public safety will be considered.

**Background**

Under the Tahoe Regional Planning Compact, TRPA is charged with adopting protective environmental threshold carry capacities (thresholds) for the Lake Tahoe Basin. These thresholds set the desired existing or future condition of relevant environmental parameters. TRPA's current thresholds protect, among other things, water and air quality, vegetation, wildlife, soils, recreational opportunities, and scenic resources. In order to attain and maintain the adopted thresholds, the Compact directs TRPA to adopt a regional plan (our Goals and Policies and Plan Area Statements) and implementing regulations (our Code of Ordinances and Rules of Procedure).

TRPA's thresholds and Regional Plan integrate public safety concerns in a variety of ways. The water and air quality standards, for example, insure safe water to drink and air to breathe. Indeed, the Compact defines thresholds to include standards necessary to "maintain public health and safety within the region." Likewise, Regional Plan directives orient development away from steep, unstable slopes or out of avalanche danger. New development must also be sized to avoid overtaxing existing public services. And throughout the Code of Ordinances, public safety facilities are promoted with exceptions to TRPA's development restrictions.

JSJ  
2/17/04

AGENDA ITEM NO. XIII.A.

131

123

Finally, TRPA is a planning agency, not a provider of public health and safety services. To that end, TRPA seeks to facilitate the good works of in-basin public safety agencies rather than to usurp their functions in any manner.

Direction

TRPA will continue to promote public safety whenever and wherever possible through application of the following principles:

1. Public safety is integral to the accomplishment of TRPA's overall mission.
2. Public safety shall be a legitimate and necessary element in all TRPA decision-making.
3. TRPA will consider public health and safety factors in the application of all thresholds and the review of all proposed projects.
4. TRPA shall help facilitate the missions of public safety agencies within the Lake Tahoe basin.

Conclusion

To date, TRPA has successfully integrated environmental protection and preservation of public safety. The above direction expresses TRPA's commitment to providing the public with not only a resource of stunning beauty, but also a safe and healthy environment in which to live and enjoy the Lake Tahoe Basin.

I do not perceive any need for additional authority or direction from the Governing Board to implement these priorities. Should the Governing Board feel otherwise, I suggest it adopt the attached resolution affirming the above direction.

Finally, should the Governing Board desire to amend the Regional Plan to incorporate a policy regarding public safety, I suggest that it direct staff to undertake the necessary planning steps (21-day notice and APC and Governing Board public hearings) to adopt the following policy statement: "No project shall be approved that unreasonably increases the risk to public health and safety in the region. If implementation of any threshold creates an unavoidable and unreasonable risk to public health and safety, TRPA shall undertake all planning processes necessary to amend the threshold to remove the source of the increased risk."

Member Galloway desires to amend the Regional Plan with the following language

Replace with language on next page.

"TRPA is a regional planning and regulatory authority, not a provider of public health and safety services. In the review and approval process of projects proposed in the region, TRPA will consider the implications to public health and safety. Nothing TRPA does is intended to diminish the role of public health and safety agencies or to increase the safety risk to visitors or residents." I am concerned that this language may potentially create more confusion and conflict between existing TRPA policies rather than focusing on investigating and correcting, if necessary, policies potentially adversely affecting public health and safety.

JS/  
2/17/04

AGENDA ITEM NO. XIII.A.



Again, I recommend no action by the Governing Board at this time. I will direct staff to investigate any substantive allegations of a conflict between TRPA policies and public health and safety. If any real conflict is discovered, I will report it to the Governing Board and recommend all necessary steps to protect the public we serve.

If you wish to discuss this issue prior to the Governing Board meeting, please contact me at (775) 588-4547 (Extension 253), or at [jsinglaub@trpa.org](mailto:jsinglaub@trpa.org).

Attachment

⊗ substitute language

"TRPA is a regional planning and regulatory authority, not a provider of public health and safety services. The maintenance of public safety is implicit in all that TRPA does, including the attainment of thresholds. No action or ordinance of TRPA may have the effect of diminishing public safety."

TAHOE REGIONAL PLANNING AGENCY  
RESOLUTION 04-\_\_

WHEREAS, the Tahoe Regional Planning Agency exists to protect and enhance the Lake Tahoe experience. In order to enjoy the beauty of Lake Tahoe and its many recreational opportunities, the public must be provided with a safe environment.

WHEREAS, under the Tahoe Regional Planning Compact, TRPA is charged with adopting protective environmental threshold carrying capacities (thresholds) for the Lake Tahoe Basin. These thresholds set the desired existing or future condition of relevant environmental parameters.

WHEREAS, TRPA's current thresholds protect, among other things, water and air quality, vegetation, wildlife, soils, recreational opportunities, and scenic resources. In order to attain and maintain the adopted thresholds, the Compact directs TRPA to adopt a regional plan (our Goals and Policies and Plan Area Statements) and implementing regulations (our Code of Ordinances and Rules of Procedure).

WHEREAS, the Compact defines thresholds to include standards necessary to "maintain public health and safety within the region."

WHEREAS, TRPA's thresholds and Regional Plan integrate public safety concerns in a variety of ways. The water and air quality standards, for example, insure safe water to drink and air to breathe. Likewise, Regional Plan directives orient development away from steep, unstable slopes or out of avalanche danger. New development must also be sized to avoid overtaxing existing public services. And throughout the Code of Ordinances, public safety facilities are promoted with exceptions to TRPA's development restrictions.

WHEREAS, TRPA is a planning agency, not a provider of public health and safety services. To that end, TRPA seeks to facilitate the good works of in-basin public safety agencies rather than to usurp their functions in any manner.

NOW, THEREFORE, BE IT RESOLVED that TRPA will continue to promote public safety whenever and wherever possible through application of the following principles:

1. Public safety is integral to the accomplishment of TRPA's overall mission.
2. Public safety shall be a legitimate and necessary element in all TRPA decision-making.
3. TRPA will consider public health and safety factors in the application of all thresholds and the review of all proposed projects.



4. TRPA shall help facilitate the missions of public safety agencies within the Lake Tahoe basin.

Passed and adopted this 25<sup>th</sup> day of February 2004, by the Governing Board of the Tahoe Regional Planning Agency, by the following vote:

Ayes:

Nays:

Abstain:

Absent:

---

David Solaro, Chairman  
Tahoe Regional Planning Agency

**Jim Galloway**      JGG    Memorandum 3/11/04    ATTACHMENT 3

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**From:** "Norman Rosenberg" <normnev@earthlink.net>  
**To:** <james-galloway@sbcglobal.net>  
**Sent:** Thursday, March 11, 2004 8:19 PM  
**Subject:** Galloway

Norman Rosenberg  
P.O. Box 5302  
Incline Village, NV 89450  
December 6, 2003

Senator Harry Reid  
Senate Office Building  
Washington, D.C.

Dear Senator Reid:

Recently I learned from a TRPA executive that neither "health" nor "safety" is considered by TRPA staff in making a decision under any of the nine thresholds of the TRPA compact..

This is an unconscionable omission and one that needs to be rectified. TRPA will be rewriting its compact between now and 2007 and your influence is needed to mandate that those two key words are part of all decisions TRPA makes in the future.

Sincerely,

Norman M Rosenberg

3/11/2004

HARRY REID  
NEVADA

**United States Senate**  
WASHINGTON, DC 20510-2803

January 22, 2004

Mr. Norman M. Rosenberg  
PO Box 5302  
Incline Village, Nevada 89450-5302

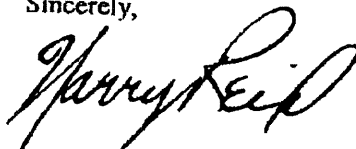
Dear Mr. Rosenberg:

Thank you for your recent inquiry. I appreciate knowing your views.

I have contacted the Tahoe Regional Planning Authority on your behalf and have brought this action to the attention of the appropriate officials. They have been asked to review your letter and provide a written response. In the meantime, if you feel that I can be of assistance in any other way, please let me know.

My best wishes to you.

Sincerely,



HARRY REID  
United States Senator

HR:rm

# TAHOE REGIONAL PLANNING AGENCY

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February 18, 2004

Mr. Norman Rosenberg  
P.O. Box 5302  
Incline Village, NV 89450

Dear Mr. Rosenberg:

This letter is in response to your letter to Senator Harry Reid, dated December 12, 2003, regarding the Tahoe Regional Planning Agency's consideration of public health and safety as it relates to the Region's environmental thresholds.

As you are aware, the Tahoe Regional Planning Compact requires TRPA to adopt protective environmental thresholds for the Lake Tahoe Basin and to adopt a regional plan aimed at achieving these thresholds. It is important to note that the Compact defines thresholds to include standards necessary to "maintain public health and safety within the region." As such, TRPA's thresholds and Regional Plan integrate public safety concerns in a variety of ways. The water and air quality standards, for example, insure safe water to drink and clean air to breathe. The Regional Plan also directs development away from steep, unstable slopes or out of flood plain and avalanche hazard areas. In addition, public safety facilities are provided numerous exceptions to TRPA's development restrictions throughout the TRPA Code of Ordinances.

Admittedly there has been some confusion recently over how TRPA deals with public health and safety issues as they relate to our mandate to attain the adopted thresholds. Although it is true that TRPA cannot approve any action that will cause an environmental threshold standard to be exceeded, the Agency has been very successful in integrating environmental protection and the preservation of public safety.

This issue is on the Agenda our upcoming Governing Board meeting on February 25th, at which time I will be making a recommendation to the Board on how best to proceed in resolving this matter. I've attached a copy of my memorandum to the Governing Board, which provides some background and my recommended direction to staff on how the Agency will consider public safety factors in all future decision-making.

Please give me a call if you should have any questions or comments concerning this issue or my proposed recommendation to the Governing Board. Thank you for your interest in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John O. Singlaub", written in a cursive style.

John O. Singlaub  
Executive Director

C: Senator Harry Reid

Attachment

This contains Draft wording for possible lesser actions -- not the first choice as recommended. This wording is only offered in the event that the Governing Board declines the primary recommendation.

**A. Resolution on Public Safety:**

WHEREAS, The TRPA Compact charges us to maintain equilibrium between the man made and natural environments, and Public safety is integral to the accomplishment of TRPA's overall mission, and

WHEREAS, Article 1(a)(8) reads:

*"(8). Responsibilities for providing recreational and scientific opportunities, preserving scenic and natural areas, and safeguarding the public who live, work and play in or visit the region are divided among local government, regional agencies, the states of California and Nevada, and the Federal Government."*

WHEREAS, "TRPA is a regional planning and regulatory authority, not a provider of public health and safety services, and

WHEREAS, TRPA wishes to cooperate with and help facilitate the mission of public safety agencies, and not to usurp their functions in any manner,

NOW THEREFORE BE IT RESOLVED that TRPA will continue to promote public safety whenever and wherever possible in accordance with the following:

1. The maintenance of public safety is implicit in all that TRPA does, including the attainment of thresholds.
2. The Agency shall defer, in its review and approval of projects in matters relating to public safety, to the judgment, determinations, and adopted regulatory provisions of those other agencies, local, regional State and Federal Government, having jurisdiction over such matters within the Tahoe Basin.
3. The agency, in regard to its own regulatory or planning actions or the adoption of ordinances shall seek to ensure that such actions or ordinances shall not have effect of diminishing public safety.

**B. Board direction:**

1. Public safety is integral to the accomplishment of TRPA's overall mission.
2. TRPA is a planning and regulatory agency and not a public safety agency.
3. TRPA shall cooperate with and help facilitate the missions of public safety agencies in the basin and shall rely upon and defer to those agencies in regard to safety related review of projects.
4. In respect to its own ordinances and regulatory and planning actions TRPA shall take no actions and shall adopt no ordinances that will have a net effect of diminishing public safety in the basin.

**NATURAL HAZARDS**

Natural hazards are those events of nature that can be hazardous to public health and safety. In the Lake Tahoe Basin, natural hazards are most frequently related to the dangers of avalanches, wildfires, and flooding.

**GOAL #1**

**RISKS FROM NATURAL HAZARDS (E.G., FLOOD, FIRE, AVALANCHE, EARTHQUAKE) WILL BE MINIMIZED.**

Land uses within the Tahoe Basin should be cognizant of natural hazards so as to help prevent damage to property and to protect public health. Natural hazard areas or situations can be identified and precautionary measures taken to minimize impacts.

**POLICIES**

**1. DEVELOPMENT SHALL BE REGULATED IN IDENTIFIED AVALANCHE OR MASS INSTABILITY HAZARD AREAS.**

In the areas with identified avalanche or mass instability danger (Natural Hazards of the Lake Tahoe Basin, 1978 or by other studies accepted by TRPA), the type of uses or activities can be designed or regulated to protect the public during hazard periods. Construction, reconstruction or replacement of structures in identified avalanche or mass instability hazard areas shall be restricted unless precautionary measures can be implemented to insure protection of public health and safety.

**2. PROHIBIT CONSTRUCTION, GRADING, AND FILLING OF LANDS WITHIN THE 100-YEAR FLOOD PLAIN AND IN THE AREA OF WAVE RUN-UP EXCEPT AS NECESSARY TO IMPLEMENT THE GOALS AND POLICIES OF THE PLAN. REQUIRE ALL PUBLIC UTILITIES, TRANSPORTATION FACILITIES, AND OTHER NECESSARY PUBLIC USES LOCATED IN THE 100-YEAR FLOOD PLAIN AND AREA OF WAVE RUN-UP TO BE CONSTRUCTED OR MAINTAINED TO PREVENT DAMAGE FROM FLOODING AND TO NOT CAUSE FLOODING.**

The Tahoe Basin is often subject to rain or storm events which cause extreme fluctuations in stream flows or wave run-up which can result in flooding and damage to property. Grading, filling, and structural development within the flood plain causes alteration of the stream flow and may accentuate downstream flooding. Development within the flood plain is subject to damage and inundation as a result of flooding and is generally prohibited by federal regulation (Executive Order No. 11988, 1977 and No. 11296, 1966).

**3. INFORM RESIDENTS AND VISITORS OF THE WILDFIRE HAZARD ASSOCIATED WITH OCCUPANCY IN THE BASIN. ENCOURAGE USE OF FIRE RESISTANT MATERIALS AND FIRE PREVENTATIVE TECHNIQUES WHEN CONSTRUCTING STRUCTURES, ESPECIALLY IN THE HIGHEST FIRE HAZARD AREAS. MANAGE FOREST FUELS TO BE CONSISTENT WITH STATE LAWS AND OTHER GOALS AND POLICIES OF THIS PLAN.**

Most wildfires in the Lake Tahoe Basin are human-caused. The decadent and monoculture vegetation on steep slopes is highly susceptible to wild fires. Serious environmental damage, property damage and impacts to public health can result from wildfires. Public awareness and education can help to decrease the risk of human-caused wildfires. Programs involving the manipulation of vegetation can also reduce fire hazards. The potential for damage to structures can be minimized with various construction techniques and installation of fire resistant materials. The Agency, in cooperation with local fire departments, will set forth criteria describing areas of high hazard and will also propose fire prevention techniques and measures.

**4. TRPA WILL ENCOURAGE PUBLIC SAFETY AGENCIES TO PREPARE DISASTER PLANS.**

The Agency will encourage police and fire departments and other agencies to prepare contingency plans for major disasters such as described in this Subelement.

## **AIR QUALITY PLAN ELEMENT**

### **A. Introduction**



The Air Quality Plan Element of the integrated Regional Transportation Plan - Air Quality Plan focuses on the need for air quality control strategies required to meet the air quality related goals for the Tahoe Region. The Tahoe Regional Planning Compact (Compact) states that the goal of transportation planning shall be to reduce to the extent feasible air pollution which is caused by motor vehicles. The purpose of the integrated Regional Transportation Plan-Air Quality Plan is to attain and maintain the Environmental Threshold Carrying Capacities (thresholds) established by TRPA in 1982, and all applicable federal, state, and local standards established for transportation and air quality.

The Air Quality Plan portion of the integrated plan document contains all feasible control measures considered to be effective in the Tahoe Region. This is consistent with the California Clean Air Act requirements, and California Air Resources Board guidance developed pursuant to the California Clean Air Act.

TRPA thresholds, Federal National Ambient Air Quality Standards (NAAQS), and state standards establish 23 separate air quality standards for 14 air quality parameters, including carbon monoxide (CO), ozone, particulate matter less than 10 microns in size (PM10), nitrogen dioxide (NO2), sulfur dioxide (SO2), visibility, lead, hydrocarbons, sulfates, hydrogen sulfide, oxides of nitrogen (NOx), wood smoke, suspended soil particles and NOx transport. Volume II of the Regional Transportation Plan - Air Quality Plan discussed these standards.



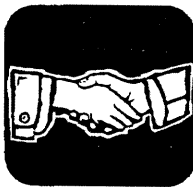
## CHAPTER VII

### IMPLEMENTATION ELEMENT

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The Implementation Element provides for commitment and coordination of effort, development of management and financial programs, and incorporation of a monitoring program to measure progress of Plan implementation. It is also a function of this Element to indicate a schedule for attaining environmental thresholds consistent with the programs, strategies, and costs specified by the goals and policies of this Plan. The Subelements are: 1) Institutional, 2) Development and Implementation Priorities, 3) Financing, and 4) Monitoring and Evaluation.

#### INSTITUTIONAL



The institutional responsibilities of Plan development and implementation are shared among numerous agencies and individuals. This Subelement establishes a framework for the coordination, responsibilities, and commitments necessary to implement the goals and policies of the Plan. A consensus is sought as to who will conduct planning, design, contracting, cost sharing, and evaluation.

#### GOAL #1

#### **COORDINATE ALL PLANNING AND DEVELOPMENT REVIEW ACTIVITIES WITH THE AFFECTED JURISDICTIONS AND AGENCIES.**

Implementation of the Regional Plan follows two broad approaches. The approaches range from the TRPA establishing and enforcing regulatory standards to TRPA establishing regional regulations to be carried out by local governments. Successful implementation of the Plan requires coordination of all phases of planning between the affected jurisdictions and the public.

#### **POLICIES**

1. **ALL PROJECTS PROPOSED IN THE REGION [OTHER THAN THOSE TO BE REVIEWED AND APPROVED UNDER THE SPECIAL PROVISIONS OF THE COMPACT RELATING TO GAMING] SHALL OBTAIN THE REVIEW AND APPROVAL OF THE AGENCY.**

This policy is consistent with Article VI(b) of the Compact which states: "No project other than those to be reviewed and approved under the special provisions of subdivisions (d), (e), (f) and (g) may be developed in the Region without obtaining the review and approval of the agency and no project may be approved unless it is found to comply with the Regional Plan and with the ordinances, rules and regulations enacted pursuant to subdivision (a) to effectuate that Plan." A project is defined by the Compact as..."an activity undertaken by any person, including any public agency, if the activity may substantially affect the land, water, air, space or any other natural resources of the region." However, it is the intent of the TRPA within the limits of the Compact to coordinate project review functions with local, state, and federal agencies.

2. **NO PROJECT MAY BE APPROVED UNLESS IT IS FOUND TO COMPLY WITH THE REGIONAL PLAN AND WITH ANY ORDINANCES, RULES, AND REGULATIONS ENACTED TO EFFECTUATE THE REGIONAL PLAN.**

Articles V(g) and VI(b) of the Compact, require a set of findings to be adopted by ordinance, as set forth above, to ensure that projects under consideration will not adversely affect implementation of the Regional Plan and will not cause the environmental thresholds to be exceeded.

3. **THE AGENCY SHALL PRESCRIBE BY ORDINANCE THOSE ACTIVITIES WHICH HAVE NO SUBSTANTIAL EFFECT ON THE LAND, AIR, SPACE, OR ANY OTHER NATURAL RESOURCES OF THE REGION. SUCH IDENTIFIED ACTIVITIES WILL BE EXEMPT FROM TRPA REVIEW AND APPROVAL.**

Ordinance 81-1, the TRPA ordinance implementing Article VI(a) which lists activities that are exempt from Agency review and approval, shall be reconsidered and possibly expanded.

4. **TRPA SHALL IDENTIFY THE PLANNING AND REVIEW RESPONSIBILITIES OF LOCAL, STATE, AND FEDERAL JURISDICTIONS.**

Whenever possible, without diminishing the effectiveness of the Regional Plan, TRPA ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective states, counties, and cities the enactment of specific and local ordinances, rules, regulations, and policies which conform to the Regional Plan. General planning and implementation responsibilities are shared among TRPA, and local, state, and federal agencies as set forth in the Compact or agreed to in a Memorandum of Understanding.

5. **TRPA, IN CONJUNCTION WITH OTHER AGENCIES OF JURISDICTION, SHALL DEVELOP AND ACTIVELY PURSUE AN EFFECTIVE ENFORCEMENT PROGRAM TO ENSURE COMPLIANCE WITH THE PLAN AND ORDINANCES OF THE AGENCY.**

## **GOAL #2**

### **IDENTIFY AND SEEK COMMITMENTS FROM AGENCIES TO IMPLEMENT THE CAPITAL IMPROVEMENTS AND REMEDIAL PROGRAMS IDENTIFIED IN THIS PLAN.**

TRPA will seek consensus among the individuals and agencies responsible for specific functions pertaining to capital improvements and remedial programs. Memoranda of Understanding (MOUs) or other forms of agreements between TRPA and implementing agencies will provide the coordination necessary to ensure efficient implementation of the Plan.

## **POLICIES**

1. **APPROPRIATE ROLES AND RESPONSIBILITIES OF VARIOUS AGENCIES FOR IMPLEMENTING THE PLAN SHALL BE IDENTIFIED AND VERIFIED THROUGH A MANAGEMENT/ AGENCY AGREEMENT.**

Tahoe Regional Planning Agency  
128 Market St.  
P. O. Box 5310  
Stateline, NV 89449

**Compact**

Public Law 96-551  
96<sup>th</sup> Congress

An Act

To grant the consent of the Congress to the Tahoe Regional Planning Compact, and to authorize the Secretary of Agriculture and others to cooperate with the planning agency thereby created.

Dec. 19, 1980  
{H. R. 8235}

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in order to encourage the wise use and conservation of the waters of Lake Tahoe and of the resources of the area around said lake, the consent of the Congress is hereby given to the Tahoe Regional Planning Compact heretofore adopted by the States of California and Nevada, which compact reads as follows:

Tahoe  
Regional  
Planning  
Compact

TAHOE REGIONAL PLANNING COMPACT

ARTICLE I. - FINDINGS AND DECLARATIONS OF POLICY

(a) It is found and declared that:

- (1) The waters of Lake Tahoe and other resources of the region are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region.
- (2) The public and private interests and investments in the region are substantial.
- (3) The region exhibits unique environmental and ecological values which are irreplaceable.
- (4) By virtue of the special conditions and circumstances of the region's natural ecology, developmental pattern, population distributions and human needs, the region is experiencing problems of resource use and deficiencies of environmental control.
- (5) Increasing urbanization is threatening the ecological values of the region and threatening the public opportunities for use of the public lands.
- (6) Maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural public health values provided by the Lake Tahoe Basin.
- (7) There is a public interest in protecting, preserving and enhancing these values for the residents of the region and for visitors to the region.
- (8) Responsibilities for providing recreational and scientific opportunities, preserving scenic and natural areas, and safeguarding the public who live, work and play in or visit the region are divided among local governments, regional agencies, the States of California and Nevada, and the Federal Government.
- (9) In recognition of the public investment and multi-state and national significance of the recreational values, the Federal Government has an interest in the acquisition of recreational property and the management of resources in the region to preserve environmental and

PUBLIC LAW 96-551 – DEC. 19, 1980

recreational values, and the Federal Government should assist the States in fulfilling their responsibilities.

(10) In order to preserve the scenic beauty and outdoor recreational opportunities of the region, there is a need to insure an equilibrium between the region's natural endowment and its manmade environment.

(b) In order to enhance the efficiency and governmental effectiveness of the region, it is imperative that there be established a Tahoe Regional Planning Agency with the powers conferred by this compact including the power to establish environmental threshold carrying capacities and to adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.

(c) The Tahoe Regional Planning Agency shall interpret and administer its plans, ordinances, rules and regulations in accordance with the provision of this compact.

#### ARTICLE II. – DEFINITIONS

As used in this compact:

(a) "Region," includes Lake Tahoe, the adjacent parts of Douglas and Washoe Counties and Carson City, which for the purposes of this compact shall be deemed a county, lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the counties of Placer and El Dorado lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the county of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of section 1, thence west to the northwest corner of section 3, thence south to the intersection of the basin crestline and the west boundary of section 10; all sections referring to township 15 north, range 16 east, M. D. B. & M. The region defined and described herein shall be as precisely delineated on official maps of the agency.

(b) "Agency" means the Tahoe Regional Planning Agency.

(c) "Governing body" means the governing board of the Tahoe Regional Planning Agency.

(d) "Regional plan" means the long-term general plan for the development of the region.

(e) "Planning commission" means the advisory planning commission appointed pursuant to subdivision (h) of article III.

(f) "Gaming" means to deal, operate, carry on, conduct, maintain or expose for play any banking or percentage game played with cards, dice or any mechanical device or machine for money, property, checks, credit or any representative of value, including without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fantan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, stud poker, draw poker or slot machine, but does not include social games played solely for drinks, or cigars or cigarettes served individually, games played in private homes or residences for prizes or games operated by charitable or educational organizations, to the extent excluded by applicable State law.

(g) "Restricted gaming license" means a license to operate not more than 15 slot machines on which a quarterly fee is charged pursuant to NRS 463.373 and no other games.



# TAHOE REGIONAL PLANNING AGENCY

128 Market Street  
 Stateline, Nevada  
[www.trpa.org](http://www.trpa.org)

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 Stateline, Nevada 89449

Phone: (775) 588-4547  
 Fax (775) 588-4527  
 Email: [trpa@trpa.org](mailto:trpa@trpa.org)

## MEMORANDUM

March 09, 2004

To: TRPA Governing Board

From: TRPA Staff

Subject: February 2003/2004 Budget Status Report

**Proposed Action:** That the Governing Board meet its fiduciary responsibility of overseeing and assuring the Agency's fiscal status. This report assists in meeting this duty by providing summary tables and discussion of the various budgetary issues facing the Agency.

**Staff Recommendation:** That the Governing Board and Operations Committee review and accept the February 29, 2004 Status Report.

**Discussion:** This report portrays the budget status of the agency as of February 29, 2004. This review includes the activities of Agency General, the several Special Revenue, and the Capital Outlay Funds of the Agency.

**Analysis:**

**Overview.** The adjoining table<sup>1</sup> summarizes the status of revenues and expenditures from a budgeted and actual basis for the fiscal period beginning July 1, 2003 and ending February 29, 2004. This represents 66.7% of the budget year, and as a result of receiving both the Nevada and California funding contribution, revenues stand above target at 70.1%. Expenditures continue to lag the target at 52.2%. At this point, the Agency shows an overall operating gain of \$1.68 million.

Agency Revenue and Expense Comparison				
FY 20003/04		Status Target	66.7%	
Fund	Original Budget	Adjusted Budget	Jan 31 Status	% of Adj. Budget
<b>General Fund</b>				
<b>General Fund</b>				
Revenue	\$6,277,368	\$6,863,871	\$5,568,915	81.1%
Expenses	\$5,864,512	\$6,633,020	\$3,682,027	55.5%
<b>gain (loss)</b>	<b>\$412,856</b>	<b>\$230,851</b>	<b>\$1,886,888</b>	
<b>Total Special Revenue</b>				
Revenue	\$3,182,204	\$4,680,382	\$2,524,348	53.9%
Expenses	\$3,499,417	\$5,652,651	\$2,731,475	48.3%
<b>gain (loss)</b>	<b>(\$317,213)</b>	<b>(\$979,503)</b>	<b>(\$215,264)</b>	
<b>Total Agency Operating Budget Status</b>				
Revenue	\$9,459,572	\$11,544,253	\$8,093,263	70.1%
Expenses	\$9,363,929	\$12,285,671	\$6,413,502	52.2%
<b>gain (loss)</b>	<b>\$95,643</b>	<b>(\$741,418)</b>	<b>\$1,679,761</b>	
<b>Total Agency Capital Outlay Fund Status</b>				
Revenue	\$0	\$0	\$0	0.0%
Expenses	\$238,826	\$238,826	\$138,727	58.1%
<b>gain (loss)</b>	<b>(\$238,826)</b>	<b>(\$238,826)</b>	<b>(\$138,727)</b>	

The General Fund shows 81.1% of its revenues earned as a result of the State and County contributions attributing to this fund. Its expenditures stand at 55.5%, which is below target. These combine for a net gain of \$1.89 million. The Special Revenue

<sup>1</sup> As noted previously, this table and Enclosure I only portray the expenditure and revenue status of the Agency's funds. Please refer to Enclosure II: *Statement of Revenues, Expenditures, and Changes to Fund Balance* for a more complete fiscal picture.



Funds show 53.9% of revenues earned while expenditures are below the target-level at 48.3%. These combine for a net loss of \$215,264. The Capital Outlay Fund is 58.1% expended to date.

### ***Analysis by Fund***

*General Fund.* This fund supports the general operations of the Agency. This includes the budgets of the Governing Board, Executive Director, and the Operations, Project Review, Environmental Compliance, Long Range Planning, Environmental Improvement and Legal Divisions.

The General Fund revenues now stand at 81.1% due to the receipt of the States of California and Nevada contributions, which support over half the budget. These contributions dramatically influence the Agency's fiscal picture. Interest earnings are up for the second month in a row and therefore our negative yearly balance is continuing to decrease. At the end of February, the Agency's filing fees only slightly improved at 29.5% of the projected amount. The Agency's overhead revenue is still tracking above target at 72%.

Expenditures continue to lag target at 55.5% with \$3,682,027 committed. The Contingency Reserve remains the same with \$36,600 charged to the reserve, leaving a balance of \$37,749.

Preliminary projections of expenses and revenues continue to show that the Agency General Fund could end the year in a deficit of approximately \$150,000. We are continuing to look for other cost saving options besides the one-time shifting of contract costs to the Special Studies Fund to assure a balanced budget at the end of the fiscal year.

### ***Special Revenue Funds***

The funds earned by all Special Revenue Funds combined stand at 53.9% of budget for the year after recognizing all second quarter grant and special revenue billings. Expenditures are still tracking below target at 48.3%. This results in an operating loss of \$215,264, which is expected as grant funded programs are reimbursed quarterly after the funds have already been expended.

*Threshold Fund.* This fund is mostly derived from special State contributions. California's full \$400,000 share has been received while Nevada's has to be billed quarterly so revenues stand at 69.7%. Nevada's budgeted share includes \$99,791 from fiscal year 2002/03. The expenditures still lag far below the target at 34.4%.

*Watercraft Fund.* This \$174,000 budget is funded almost exclusively from special State funds. 100% of its revenues have now been received and posted, and expenditures continue above target at 70.1%. As this program is primarily operated in the summer season, this is expected.

*Special Studies Fund.* Fines and forfeitures levied by TRPA are accrued in this special fund for Tahoe-related environmental studies - once sufficient revenues are recognized and studies defined and approved by the Science Advisory Group. The scope has been expanded to include studies and activities outside the scope of the SAG including



\$75,000 for the Nevada Oversight Committee requested Operational Audit and \$217,450 for two of the environmental monitoring contracts. Additionally, \$75,000 has been transferred to a new Environmental Education Fund. The Special Studies Fund recognized \$221,055 in revenue and \$235,672 in expenditures by the end of February.

*Environmental Education.* Recent case settlements have resulted in the litigants "contributing" funds towards environmental education functions. So as not to confuse these monies with regular fines and forfeitures, these have been set out as a separate fund to track the contributions and the expenditures. Created at \$75,000 by the May 2002 budget augmentation, \$86,000 was received in 2002/03. No commitments were made by year-end so this fund balance rolled into the 2003/04 fiscal year. No new contributions have been received this fiscal year while \$25,180 has been spent from fund balance for improvements to the Agency's website.

*Pass Through Fund.* This fund was not budgeted in either 2002/03 or in 2003/04. As reported last month, \$111,468 has been contributed to this fund to cover the TIIMS (Tahoe Integrated Information Management System) expenditures supported by USGS (one of several funding accounts for this project). As of the end of February expenditures remained the same at \$99,830.

*EPA/CTS Fund.* The Coordinated Transit System fund was created at the September 2002 Governing Board meeting to implement the computerized communications process of coordinating local transit services. It is funded by grant funds, which are matched by regional contributors. The 2003/04 budget provided for a \$100,000 per year contract for operating the system. This will be funded from revenues derived from impact fees collected by the South Tahoe Public Utilities District.

As of the end of February revenues total \$656,431 and expenditures \$705,364 drawing down last year's fund balance by \$48,933 leaving a balance of \$368,523.

*Erosion Control Fund.* This fund is comprised of 6 grants and special subsidies. Revenues still stand at 29.3% following second quarter grant billings. The expenditures are still tracking below target at \$298,312 or 38.3%, but there is concern with the Agency supported budget-unit being almost totally expended at 90.9%. For the balance of the fiscal year staff has to allocate their time to reimbursable grant work elements so this fund does not end up the year with another negative fund balance. This could potentially create an even larger General Fund deficit for 2004.

*EPA Real-Time Fund.* The EPA Grant revenues after the January billing are at 51.1%, which covers this year's expenses plus the deficit fund balance from the prior two years. This grant has been extended until December 2004.

*Transportation Fund.* 9 budgets are operated out of this fund. The Transportation revenues are still at \$768,121, which represents only 39.9% of the budgeted amount. Expenditures are continuing to track below budget and target at \$955,566 (46.9%) for the year. Staff is currently working on aligning their OWP and the budget to the approved grant balances.

*Capital Outlay Fund.* This fund was initially created to account for the costs associated with the development of a new office facility. It has since been expanded to cover the costs of implementing a new financial accounting system and the costs of upgrading the

Agency's information technology systems to maintainable levels. As a capital fund, monies left unexpended at yearend are carried over pending project completion, at which time any remaining fund balances are returned to source. At the end of February, expenditures totaled \$138,727 or 58.1%.

### **Exceptions Analysis**

*Filing Fees.* The filing fees did increase in February but they are still lagging substantially and it is looking like the deficit could end up higher than we formerly projected. Historically the second half of the year has higher filing fee revenues so we should be seeing an increase with the construction period on the upswing. This still remains a major concern of staff as filing fees could end up under-realized by \$300,000.

*Interest Earnings.* The Agency's interest earnings on investments showed another month of positive gains reducing the year-to-date negative amount to (\$419). We are still projecting yearend totals to be at least \$100,000 below budget.

### Conclusions:

- The filing fees only improved slightly during the month of February and this is remaining the major concern with staff as the largest contributor to the yearend deficit along with the low interest earnings. With the construction months coming up in the second half of the fiscal year, the filing fees should substantially increase. Staff is continuing to look for more cost saving options to assure we keep on track for a balanced budget at yearend.
- The Agency's tight cashflow has been kept in check so far this year with the Grants and special revenues being billed within thirty days after the quarter ends. With our new finance software accounts receivable module we are better able to track outstanding invoices and proceed with the collection of these invoices more timely. This issue will have to be closely monitored at the beginning of next fiscal year prior to receiving our state appropriations.
- The 2004/2005 budget has been addressed and the Agency has started planning strategies around the reduced cash balances and the budget situations in both California and Nevada as well as continuing to initiate remedial actions to balance the 2003/2004 budget.

Follow-up: Note that Enclosure II, *Statement of Revenues, Expenditures, and Changes to Fund Balance*, includes Fund 810, which tracks activity for the Tahoe Transportation District, not discussed or summarized above.

Questions or comments to this report may be directed to Sondra Schmidt, Acting Budget Director, telephone (775) 588-4547 ext. 233, fax (775) 588-4527, at [sschmidt@trpa.org](mailto:sschmidt@trpa.org).

### **Enclosures:**

- Enclosure I: *Agency Revenue and Expense Comparison*
- Enclosure II: *Statement of Revenue, Expenditures, and Changes in Fund Balance as of February 29, 2004*

Enclosure I

February 2003/2004 Budget Status Report  
 March 24, 2004 Governing Board Agenda

Agency Revenue and Expense Comparison				
FY 20003/04		Status Target	66.7%	
Fund	Original Budget	Adjusted Budget	Jan 31 Status	% of Adj. Budget
<b>General Fund</b>				
<b>General Fund</b>				
Revenue	\$6,277,368	\$6,863,871	\$5,568,915	81.1%
Expenses	\$5,864,512	\$6,633,020	\$3,682,027	55.5%
<b>gain (loss)</b>	<b>\$412,856</b>	<b>\$230,851</b>	<b>\$1,886,888</b>	
<b>Special Revenue Funds</b>				
<b>Threshold</b>				
Revenue	\$697,000	\$699,791	\$487,900	69.7%
Expenses	\$772,000	\$1,086,239	\$373,988	34.4%
<b>gain (loss)</b>	<b>(\$75,000)</b>	<b>(\$386,448)</b>	<b>\$113,912</b>	
<b>Watercraft</b>				
Revenue	\$174,000	\$174,000	\$174,000	100.0%
Expenses	\$174,505	\$174,505	\$122,329	70.1%
<b>gain (loss)</b>	<b>(\$505)</b>	<b>(\$505)</b>	<b>\$51,671</b>	
<b>Special Studies Fund</b>				
Revenue	\$175,000	\$175,000	\$221,055	126.3%
Expenses	\$175,000	\$511,071	\$235,672	46.1%
<b>gain (loss)</b>	<b>\$0</b>	<b>(\$336,071)</b>	<b>(\$14,617)</b>	
<b>Environmental Education Fund</b>				
Revenue	\$0	\$0	\$0	na
Expenses	\$0	\$25,000	\$25,180	100.7%
<b>gain (loss)</b>	<b>\$0</b>	<b>(\$25,000)</b>	<b>(\$25,180)</b>	
<b>Pass Through Fund</b>				
Revenue	\$0	\$0	\$111,468	na
Expenses	\$0	\$0	\$99,830	na
<b>gain (loss)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$11,638</b>	
<b>EPA/CTS fund</b>				
Revenue	\$100,000	\$1,000,000	\$656,431	65.6%
Expenses	\$100,000	\$1,000,000	\$705,364	70.5%
<b>gain (loss)</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$48,933)</b>	
<b>Erosion Control</b>				
Revenue	\$661,897	\$661,897	\$193,640	29.3%
Expenses	\$778,474	\$778,474	\$298,312	38.3%
<b>gain (loss)</b>	<b>(\$116,577)</b>	<b>(\$116,577)</b>	<b>(\$104,672)</b>	
<b>EPA-Real Time</b>				
Revenue	\$0	\$45,387	\$23,201	51.1%
Expenses	\$0	\$38,153	\$15,064	39.5%
<b>gain (loss)</b>	<b>\$0</b>	<b>\$7,234</b>	<b>\$8,137</b>	
<b>Transportation</b>				
Revenue	\$1,374,307	\$1,924,307	\$768,121	39.9%
Expenses	\$1,499,438	\$2,039,209	\$955,566	46.9%
<b>gain (loss)</b>	<b>(\$125,131)</b>	<b>(\$114,902)</b>	<b>(\$187,445)</b>	
<b>Total Special Revenue</b>				
Revenue	\$3,182,204	\$4,680,382	\$2,524,348	53.9%
Expenses	\$3,499,417	\$5,652,651	\$2,731,475	48.3%
<b>gain (loss)</b>	<b>(\$317,213)</b>	<b>(\$979,503)</b>	<b>(\$215,264)</b>	
<b>Total Agency Operating Budget Status</b>				
Revenue	\$9,459,572	\$11,544,253	\$8,093,263	70.1%
Expenses	\$9,363,929	\$12,285,671	\$6,413,502	52.2%
<b>gain (loss)</b>	<b>\$95,643</b>	<b>(\$741,418)</b>	<b>\$1,679,761</b>	
<b>Total Agency Capital Outlay Fund Status</b>				
Revenue	\$0	\$0	\$0	0.0%
Expenses	\$238,826	\$238,826	\$138,727	58.1%
<b>gain (loss)</b>	<b>(\$238,826)</b>	<b>(\$238,826)</b>	<b>(\$138,727)</b>	

**Enclosure II**

**TAHOE REGIONAL PLANNING AGENCY  
GENERAL FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
<b>REVENUES</b>				
State and Local Government Revenues	4,383,132	4,383,132	-	100.00%
Grant Revenues	525,000	53,059	471,941	10.11%
Fees for Services	1,158,932	450,803	708,129	38.90%
Passthrough Revenue	0	260,570	(260,570)	N/A
Investment Revenue	216,439	(419)	216,858	-0.19%
Admin & Overhead Revenue	579,864	417,366	162,498	71.98%
Miscellaneous Revenue	504	4,404	(3,900)	873.81%
Total Revenues	<u>6,863,871</u>	<u>5,568,915</u>	<u>1,294,956</u>	<u>81.13%</u>
<b>EXPENDITURES</b>				
Governing Board:				
Services and Supplies	15,959	12,444	3,515	77.97%
Contracts	8,000	4,161	3,839	52.01%
Total Governing Board	<u>23,959</u>	<u>16,605</u>	<u>7,354</u>	<u>69.31%</u>
Executive:				
Salaries and Benefits	392,161	249,503	142,658	63.62%
Services and Supplies	1,805	65	1,740	3.60%
Travel	6,316	862	5,454	13.65%
Contracts	0	-	0	0.00%
Total Executive	<u>400,282</u>	<u>250,430</u>	<u>149,852</u>	<u>62.56%</u>
Public Affairs:				
Salaries and Benefits	140,131	27,954	112,177	19.95%
Services and Supplies	17,626	8,932	8,694	50.68% encumbrance
Travel	0	86	(86)	N/A
Contracts	0	-	0	0.00%
Total Public Affairs	<u>157,757</u>	<u>36,972</u>	<u>120,785</u>	<u>23.44%</u>
Human Resources:				
Salaries and Benefits	106,139	60,527	45,612	57.03%
Services and Supplies	31,352	27,873	3,479	88.90% encumbrance
Contracts	7,763	-	7,763	0.00%
Training	42,848	8,436	34,412	19.69%
Total Human Resources	<u>188,102</u>	<u>96,836</u>	<u>91,266</u>	<u>51.48%</u>
Total Executive Division	<u>770,100</u>	<u>400,843</u>	<u>369,257</u>	<u>52.05%</u>
Operations:				
Special Programs				
Salaries and Benefits	97,232	61,325	35,907	63.07%
Services and Supplies	1,300	199	1,101	15.31%
Travel	0	26	(26)	N/A
Capital Outlay	0	-	0	0.00%
Total Operations	<u>98,532</u>	<u>61,550</u>	<u>36,982</u>	<u>62.47%</u>
Information Technology				
Salaries and Benefits	209,329	134,310	75,019	64.16%
Services and Supplies	2,828	1,401	1,427	49.54% encumbrance
Information Services	28,277	12,142	16,135	42.94%
Training	3,344	-	3,344	0.00%
Capital Outlay	17,000	3,012	13,988	17.72% Augmentation
Total Information Technology	<u>260,778</u>	<u>150,865</u>	<u>109,913</u>	<u>57.85%</u>

**TAHOE REGIONAL PLANNING AGENCY  
GENERAL FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
Management Support				
Salaries and Benefits	125,527	80,151	45,376	63.85%
Services and Supplies	100	-	100	0.00%
Capital Outlay	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
Total Management Support	<u>125,627</u>	<u>80,151</u>	<u>45,476</u>	<u>63.80%</u>
General Service:				
Salaries and Benefits	36,351	10,935	25,416	30.08%
Travel	10,026	3,386	6,640	33.77%
Services and Supplies	798,092	507,323	290,769	63.57% encumbrance
Information Services	6,525	2,855	3,670	43.75%
Training	5,442	4,114	1,328	75.60% encumbrance
Utilities	<u>657</u>	<u>-</u>	<u>657</u>	<u>0.00%</u>
Total General Services	<u>857,093</u>	<u>528,613</u>	<u>328,480</u>	<u>61.68%</u>
Finance:				
Salaries and Benefits	243,929	145,167	98,762	59.51%
Services and Supplies	<u>31,774</u>	<u>29,851</u>	<u>1,923</u>	<u>93.95%</u>
Total Finance	<u>275,703</u>	<u>175,018</u>	<u>100,685</u>	<u>63.48%</u>
Total Operations Division	<u>1,617,733</u>	<u>996,197</u>	<u>621,536</u>	<u>61.58%</u>
Project Review:				
Salaries and Benefits	826,783	556,689	270,094	67.33%
Services and Supplies	12,057	10,059	1,998	83.43% encumbrance
Training	23	-	23	0.00%
Contracts	83,278	44,140	39,138	53.00% encumbrance
Capital Outlay	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
Total Project Review	<u>922,141</u>	<u>610,888</u>	<u>311,253</u>	<u>66.25%</u>
Compliance:				
Compliance Administration:				
Salaries and Benefits	200,678	109,945	90,733	54.79% encumbrance
Services and Supplies	1,463	59	1,404	4.03%
Capital Outlay	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
Total Compliance Administration	<u>202,141</u>	<u>110,004</u>	<u>92,137</u>	<u>54.42%</u>
Compliance Team:				
Salaries and Benefits	321,491	169,158	152,333	52.62% encumbrance
Services and Supplies	2,600	5,140	(2,540)	197.70%
Contracts	<u>1,990</u>	<u>-</u>	<u>1,990</u>	<u>0.00%</u> encumbrance
Total Compliance Team	<u>326,081</u>	<u>174,298</u>	<u>151,783</u>	<u>53.45%</u>
Compliance Vegetation:				
Salaries and Benefits	105,254	67,937	37,317	64.55%
Services and Supplies	<u>2,393</u>	<u>406</u>	<u>1,987</u>	<u>16.97%</u> encumbrance
Total Compliance Vegetation	<u>107,647</u>	<u>68,343</u>	<u>39,304</u>	<u>63.49%</u>
Total Compliance Division	<u>635,869</u>	<u>352,645</u>	<u>283,224</u>	<u>55.46%</u>

**TAHOE REGIONAL PLANNING AGENCY  
GENERAL FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
Long Range Planning:				
Long Range Planning Administration:				
Salaries and Benefits	222,743	140,715	82,028	63.17%
Services and Supplies	1,170	-	1,170	0.00%
Capital Outlay	0	-	0	0.00%
Total Long Range Planning Admin	<u>223,913</u>	<u>140,715</u>	<u>83,198</u>	<u>62.84%</u>
Long Range Environ Monitoring:				
Salaries and Benefits	235,612	160,520	75,092	68.13%
Travel	0	15	(15)	N/A
Services and Supplies	5,152	765	4,387	14.85%
Utilities	285	305	(20)	107.02%
Contracts	299,330	78,500	220,830	26.23%
Capital Outlay	0	-	0	0.00%
Total Long Range Environ Monitor	<u>540,379</u>	<u>240,105</u>	<u>300,274</u>	<u>44.43%</u>
Long Range Program Managers				
Salaries and Benefits	267,455	166,565	100,890	62.28%
Travel	182	511	(329)	280.77%
Services and Supplies	1,074	(309)	1,383	-28.77%
Training	0	435	(435)	N/A
Contracts	180,249	78,595	101,654	43.60%
Total Long Range Program Mgrs	<u>448,960</u>	<u>245,797</u>	<u>203,163</u>	<u>54.75%</u>
Total Long Range Planning	<u>1,213,252</u>	<u>626,617</u>	<u>586,635</u>	<u>51.65%</u>
EIP Team:				
Salaries and Benefits	468,257	230,487	237,770	49.22%
Travel	277	280	(3)	101.08%
Admin & Overhead	28,003	23,974	4,029	85.61%
Services and Supplies	829	16,434	(15,605)	1982.39%
Information Services	0	45	(45)	N/A
Training	3,000	-	3,000	0.00%
Contracts	486,000	35,808	450,192	7.37%
Capital Outlay	11,000	2,995	8,005	27.23%
Total EIP Team	<u>997,366</u>	<u>310,023</u>	<u>687,343</u>	<u>31.08%</u>
Legal				
Salaries and Benefits	269,197	164,597	104,600	61.14%
Travel	1,000	12	988	1.20%
Services and Supplies	16,352	12,447	3,905	76.12%
Information Services	0	31	(31)	N/A
Training	3,000	159	2,841	5.30%
Contracts	165,000	85,845	79,155	52.03%
Total Legal	<u>454,549</u>	<u>263,091</u>	<u>191,458</u>	<u>57.88%</u>
Total General Fund	<u>6,611,010</u>	<u>3,560,304</u>	<u>3,050,706</u>	<u>53.85%</u>
Passthrough Expenditures	<u>0</u>	<u>111,533</u>	<u>(111,533)</u>	<u>N/A</u>
Debt Service:				
Principal	19,542	9,558	9,984	48.91%
Interest	2,468	632	1,836	25.61%
	<u>22,010</u>	<u>10,190</u>	<u>11,820</u>	<u>46.30%</u>



**TAHOE REGIONAL PLANNING AGENCY  
GENERAL FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
Total Expenditures	<u>6,633,020</u>	<u>3,682,027</u>	<u>2,950,993</u>	<u>55.51%</u>
Excess (Deficiency) of Revenues over Expenditures	<u>230,851</u>	<u>1,886,888</u>	<u>1,656,037</u>	
Other Financing Sources (Uses):				
Contingency	71,349	33,600	37,749	39.24%
Operating transfers in (out)	(519,981)	(434,932)	(85,049)	83.64%
Proceeds from sale of equipment	0	-	0	0.00%
Proceeds from notes and leases	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
	<u>(448,632)</u>	<u>(401,332)</u>	<u>(47,300)</u>	<u>89.46%</u>
Excess (Deficiency) of Revenues and Other Sources over Expenditures and Other Uses	(217,781)	1,485,556		
Fund Balance, July 1	<u>764,003</u>	<u>764,003</u>		
Fund Balance to Date	<u>546,222</u>	<u>2,249,559</u>		

**TAHOE REGIONAL PLANNING AGENCY  
THRESHOLD FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>	
<b>REVENUES</b>					
Federal Grants	0	-	0	0.00%	
State and Local Government Revenues	699,791	485,400	214,391	69.36%	
Miscellaneous Revenue	0	2,500	(2,500)	N/A	
<b>Total Revenues</b>	<u>699,791</u>	<u>487,900</u>	<u>211,891</u>	<u>69.72%</u>	
<b>EXPENDITURES</b>					
<b>SCENIC OFF-SITE MITIGATION</b>					
Supplies	0	-	0	0.00%	
Contracts	11,119	4,968	6,151	44.68%	encumbrance
<b>TOTAL</b>	<u>11,119</u>	<u>4,968</u>	<u>6,151</u>	<u>44.68%</u>	
<b>RECREATION</b>					
Services and Supplies	0	-	0	0.00%	
Contracts	31,896	12,385	19,511	38.83%	encumbrance
<b>TOTAL</b>	<u>31,896</u>	<u>12,385</u>	<u>19,511</u>	<u>38.83%</u>	
<b>FISHERIES</b>					
Services and Supplies	0	500	(500)	N/A	
Contracts	87,500	15,000	72,500	17.14%	encumbrance
<b>TOTAL</b>	<u>87,500</u>	<u>15,500</u>	<u>72,000</u>	<u>17.71%</u>	
<b>WATER QUALITY</b>					
Contracts	26,476	11,250	15,226	42.49%	encumbrance
<b>TOTAL</b>	<u>26,476</u>	<u>11,250</u>	<u>15,226</u>	<u>42.49%</u>	
<b>SOILS/SEZ</b>					
Salaries and Benefits	28,669	-	28,669	0.00%	
Contracts	98,791	10,661	88,130	10.79%	encumbrance
<b>TOTAL</b>	<u>127,460</u>	<u>10,661</u>	<u>116,799</u>	<u>8.36%</u>	
<b>AIR QUALITY</b>					
Salaries and Benefits	0	-	0	0.00%	
Capital Outlay	25,000	-	25,000	0.00%	
Contracts	0	-	0	0.00%	
<b>TOTAL</b>	<u>25,000</u>	<u>-</u>	<u>25,000</u>	<u>0.00%</u>	
<b>WILDLIFE</b>					
Salaries and Benefits	0	-	0	0.00%	
Services and Supplies	0	-	0	0.00%	
Contracts	20,000	20,000	0	100.00%	encumbrance
Capital Outlay	0	-	0	0.00%	
<b>TOTAL</b>	<u>20,000</u>	<u>20,000</u>	<u>0</u>	<u>100.00%</u>	
<b>NOISE</b>					
Salaries and Benefits	0	-	0	0.00%	
Services and Supplies	0	-	0	0.00%	
Contracts	50,845	24,491	26,354	48.17%	encumbrance
Capital Outlay	0	-	0	0.00%	
<b>TOTAL</b>	<u>50,845</u>	<u>24,491</u>	<u>26,354</u>	<u>48.17%</u>	

**TAHOE REGIONAL PLANNING AGENCY  
THRESHOLD FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>	
<b>SCENIC</b>					
Salaries and Benefits	0	-	0	0.00%	
Services and Supplies	0	-	0	0.00%	
Contracts	<u>21,502</u>	<u>24,265</u>	<u>(2,763)</u>	<u>112.85%</u>	encumbrance
<b>TOTAL</b>	<u>21,502</u>	<u>24,265</u>	<u>(2,763)</u>	<u>112.85%</u>	
<b>TIMMS</b>					
Salaries and Benefits	13,000	3,306	9,694	25.43%	
Training	2,000	1,076	924	53.80%	
Contracts	<u>139,897</u>	<u>21,551</u>	<u>118,346</u>	<u>15.40%</u>	encumbrance
<b>TOTAL</b>	<u>154,897</u>	<u>25,933</u>	<u>128,964</u>	<u>16.74%</u>	
<b>VEGETATION</b>					
Services and Supplies	0	-	0	0.00%	
Contracts	<u>49,964</u>	<u>42,048</u>	<u>7,916</u>	<u>84.16%</u>	encumbrance
<b>TOTAL</b>	<u>49,964</u>	<u>42,048</u>	<u>7,916</u>	<u>84.16%</u>	
<b>GENERAL THRESHOLD</b>					
Salaries and Benefits	49,580	43,854	5,726	88.45%	encumbrance
Supplies	0	7,389	(7,389)	N/A	
Contracts	80,000	24,891	55,109	31.11%	encumbrance
Capital Outlay	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>	
<b>TOTAL</b>	<u>129,580</u>	<u>76,134</u>	<u>53,446</u>	<u>58.75%</u>	
<b>DATA BASE SUPPORT</b>					
Extra Help	40,000	16,877	23,123	42.19%	
Services and Supplies	0	-	0	0.00%	
Contracts	40,000	-	40,000	0.00%	
Hardware/Software	50,000	40,000	10,000	80.00%	
Capital Outlay	<u>20,000</u>	<u>-</u>	<u>20,000</u>	<u>0.00%</u>	
<b>TOTAL</b>	<u>150,000</u>	<u>56,877</u>	<u>93,123</u>	<u>37.92%</u>	
<b>ADAPTIVE MANAGEMENT</b>					
Services and Supplies	0	2,965	(2,965)	N/A	
Contracts	<u>200,000</u>	<u>46,511</u>	<u>153,489</u>	<u>23.26%</u>	
<b>TOTAL</b>	<u>200,000</u>	<u>49,476</u>	<u>150,524</u>	<u>24.74%</u>	
Total Expenditures	<u>1,086,239</u>	<u>373,988</u>	<u>712,251</u>	<u>34.43%</u>	
Excess (Deficiency) of Revenues over Expenditures	<u>(386,448)</u>	<u>113,912</u>	<u>(500,360)</u>		
Other Financing Sources (Uses):					
Operating transfers in (out)	<u>75,000</u>	<u>50,000</u>	<u>25,000</u>	<u>66.67%</u>	
Excess (Deficiency) of Revenues and Other Sources over Expenditures and Other Uses	(311,448)	163,912			
Fund Balance, July 1	<u>297,818</u>	<u>297,818</u>			
Fund Balance to Date	<u>(13,630)</u>	<u>614,589</u>			

**TAHOE REGIONAL PLANNING AGENCY  
WATERCRAFT FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
<b>REVENUES</b>				
State and Local Government Revenues	174,000	174,000	-	100.00%
Miscellaneous Revenue	<u>0</u>	<u>-</u>	<u>-</u>	<u>0.00%</u>
Total Revenues	<u>174,000</u>	<u>174,000</u>	<u>-</u>	<u>100.00%</u>
<b>EXPENDITURES</b>				
Salaries and Benefits	93,012	64,850	28,162	69.72%
Travel	703	-	703	0.00%
Services and Supplies	18,249	13,247	5,002	72.59%
Contracts	0	-	0	0.00%
Admin & Overhead	62,331	44,232	18,099	70.96%
Training	210	-	210	0.00%
Capital Outlay	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
Total Expenditures	<u>174,505</u>	<u>122,329</u>	<u>52,176</u>	<u>70.10%</u>
Excess (Deficiency) of Revenues over Expenditures	<u>(505)</u>	<u>51,671</u>	<u>52,176</u>	
Other Financing Sources (Uses):				
Proceeds from Sale of Equipment	0	-	0	0.00%
Operating transfers in (out)	<u>0</u>	<u>505</u>	<u>(505)</u>	<u>N/A</u>
Excess (Deficiency) of Revenues and Other Sources over Expenditures and Other Uses	<u>(505)</u>	<u>52,176</u>		
Fund Balance, July 1	<u>4,301</u>	<u>4,301</u>		
Fund Balance to Date	<u>3,796</u>	<u>56,477</u>		

**TAHOE REGIONAL PLANNING AGENCY  
SPECIAL STUDIES FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
<b>REVENUES</b>				
Passthrough Revenues	0	45,000	(45,000)	N/A
Fines and Forfeitures	<u>175,000</u>	<u>176,055</u>	<u>(1,055)</u>	<u>100.60%</u>
Total Revenues	<u>175,000</u>	<u>221,055</u>	<u>(46,055)</u>	<u>126.32%</u>
<b>EXPENDITURES</b>				
<b>SPECIAL STUDIES</b>				
Supplies	0	5,448	(5,448)	N/A
Contracts	<u>511,071</u>	<u>205,224</u>	<u>305,847</u>	<u>40.16%</u> encumbrance
Total	<u>511,071</u>	<u>210,672</u>	<u>300,399</u>	<u>41.22%</u>
Passthrough Expenditures	<u>0</u>	<u>25,000</u>	<u>(25,000)</u>	<u>N/A</u>
Total Expenditures	<u>511,071</u>	<u>235,672</u>	<u>275,399</u>	<u>46.11%</u>
Excess (Deficiency) of Revenues over Expenditures	<u>(336,071)</u>	<u>(14,617)</u>	<u>(321,454)</u>	
Other Financing Sources (Uses):				
Operating transfers in (out)	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
Excess (Deficiency) of Revenues and Other Sources over Expenditures and Other Uses	(336,071)	(14,617)		
Fund Balance, July 1	<u>543,903</u>	<u>543,903</u>		
Fund Balance to Date	<u>207,832</u>	<u>529,286</u>		

**TAHOE REGIONAL PLANNING AGENCY  
ENVIRONMENTAL EDUCATION FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
<b>REVENUES</b>				
Contributions to Education	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
Total Revenues	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
<b>EXPENDITURES</b>				
<b>ENVIRONMENTAL EDUCATION</b>				
Contracts	<u>25,000</u>	<u>25,180</u>	<u>(180)</u>	<u>100.72%</u>
Total	<u>25,000</u>	<u>25,180</u>	<u>(180)</u>	<u>100.72%</u>
 Total Expenditures	 <u>25,000</u>	 <u>25,180</u>	 <u>(180)</u>	
Excess (Deficiency) of Revenues over Expenditures	 <u>(25,000)</u>	 <u>(25,180)</u>	 <u>180</u>	
<b>Other Financing Sources (Uses):</b>				
Operating transfers in (out)	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
 Excess (Deficiency) of Revenues and Other Sources over Expenditures and Other Uses	 <u>(25,000)</u>	 <u>(25,180)</u>		
Fund Balance, July 1	<u>86,000</u>	<u>86,000</u>		
Fund Balance to Date	<u>61,000</u>	<u>60,820</u>		

**TAHOE REGIONAL PLANNING AGENCY  
PASSTHROUGH FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
<b>REVENUES</b>				
Passthrough Revenues	<u>0</u>	<u>111,468</u>	<u>(111,468)</u>	<u>N/A</u>
Total Revenues	<u>0</u>	<u>111,468</u>	<u>(111,468)</u>	<u>N/A</u>
<b>EXPENDITURES</b>				
Passthrough Expenses	<u>0</u>	<u>99,830</u>	<u>(99,830)</u>	<u>N/A</u>
Total Expenditures	<u>0</u>	<u>99,830</u>	<u>(99,830)</u>	<u>N/A</u>
Excess (Deficiency) of Revenues over Expenditures	<u>-</u>	<u>11,638</u>	<u>11,638</u>	
Other Financing Sources (Uses):				
Operating transfers in (out)	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
Excess (Deficiency) of Revenues and Other Sources over Expenditures and Other Uses	<u>0</u>	<u>11,638</u>		
Fund Balance, July 1	<u>0</u>	<u>0</u>		
Fund Balance to Date	<u>0</u>	<u>11,638</u>		

**TAHOE REGIONAL PLANNING AGENCY  
EPA/CTS FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
<b>REVENUES</b>				
Federal Grants	260,000	315,572	(55,572)	121.37%
Grant Match	<u>740,000</u>	<u>340,859</u>	<u>399,141</u>	<u>46.06%</u>
Total Revenues	<u>1,000,000</u>	<u>656,431</u>	<u>343,569</u>	<u>65.64%</u>
<b>EXPENDITURES</b>				
Services and Supplies	235,300	133,218	102,082	56.62%
Information Services	0	189	(189)	N/A
Utilities	10,000	-	10,000	0.00%
Capital Outlay	120,000	12,629	107,371	10.52%
Contracts	<u>634,700</u>	<u>559,328</u>	<u>75,372</u>	<u>88.12%</u>
Total Expenditures	<u>1,000,000</u>	<u>705,364</u>	<u>294,636</u>	<u>70.54%</u>
Excess (Deficiency) of Revenues over Expenditures	<u>(0)</u>	<u>(48,933)</u>	<u>(48,933)</u>	
Other Financing Sources (Uses):				
Operating transfers in (out)	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
Excess (Deficiency) of Revenues and Other Sources over Expenditures and Other Uses	(0)	(48,933)		
Fund Balance, July 1	<u>417,456</u>	<u>417,456</u>		
Fund Balance to Date	<u>417,456</u>	<u>368,523</u>		



**TAHOE REGIONAL PLANNING AGENCY  
EROSION CONTROL FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
<b>REVENUES</b>				
Federal Grants	352,730	52,298	300,432	14.83%
State Grants	309,167	141,342	167,825	45.72%
Miscellaneous Revenue	0	-	0	0.00%
Total Revenues	<u>661,897</u>	<u>193,640</u>	<u>468,257</u>	<u>29.26%</u>
<b>EXPENDITURES</b>				
<b>EROSION CONTROL TEAM</b>				
Salaries and Benefits	25,043	21,849	3,194	87.25%
Services and Supplies	0	96	(96)	N/A
Admin & Overhead	16,729	16,024	705	95.79%
Contracts	0	-	0	0.00%
Capital Outlay	0	-	0	0.00%
Total Erosion Control Team	<u>41,772</u>	<u>37,969</u>	<u>3,803</u>	<u>90.90%</u>
<b>BMP 319 (NV) NEW</b>				
Salaries and Benefits	63,288	23,569	39,719	37.24%
Services and Supplies	4,000	-	4,000	0.00%
Admin & Overhead	42,314	17,286	25,028	40.85%
Travel	3,285	-	3,285	0.00%
Contracts	102,951	1,872	101,079	1.82%
Capital Outlay	0	-	0	0.00%
TOTAL	<u>215,838</u>	<u>42,727</u>	<u>173,111</u>	<u>19.80%</u>
<b>LAKE TAHOE LICENSE PLATE (NV)</b>				
Salaries and Benefits	19,677	20,260	(583)	102.96%
Services and Supplies	0	-	0	0.00%
Admin & Overhead	13,125	14,859	(1,734)	113.21%
Contracts	2,564	5,000	(2,436)	195.01%
Capital Outlay	0	-	0	0.00%
TOTAL	<u>35,366</u>	<u>40,119</u>	<u>(4,753)</u>	<u>113.44%</u>
<b>PROP 13 (CA)</b>				
Salaries and Benefits	94,379	58,028	36,351	61.48%
Services and Supplies	24,149	3,419	20,730	14.16%
Admin & Overhead	62,997	42,557	20,440	67.55%
Information Services	2,000	-	2,000	0.00%
Training	3,000	287	2,713	9.57%
Contracts	139,528	41,798	97,730	29.96%
Capital Outlay	0	-	0	0.00%
TOTAL	<u>326,053</u>	<u>146,089</u>	<u>179,964</u>	<u>44.81%</u>
<b>USFS - CURTEM</b>				
Salaries and Benefits	15,858	2,351	13,507	14.83%
Services and Supplies	0	-	0	0.00%
Admin & Overhead	10,500	1,724	8,776	16.42%
Contracts	64,417	-	64,417	0.00%
Capital Outlay	0	-	0	0.00%
TOTAL	<u>90,775</u>	<u>4,075</u>	<u>86,700</u>	<u>4.49%</u>

**TAHOE REGIONAL PLANNING AGENCY  
EROSION CONTROL FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
BUREAU OF RECLAMATION				
Salaries and Benefits	34,050	15,768	18,282	46.31%
Admin & Overhead	22,968	11,565	22,968	50.35%
Contracts	<u>11,652</u>	<u>-</u>	<u>11,652</u>	<u>0.00%</u>
TOTAL	<u>68,670</u>	<u>27,333</u>	<u>52,902</u>	<u>39.80%</u>
Total Expenditures	<u>778,474</u>	<u>298,312</u>	<u>491,727</u>	<u>38.32%</u>
Excess (Deficiency) of Revenues over Expenditures	<u>(116,577)</u>	<u>(104,672)</u>	<u>11,905</u>	
Other Financing Sources (Uses):				
Operating transfers in (out)	<u>169,094</u>	<u>132,932</u>	<u>36,162</u>	<u>78.61%</u>
Excess (Deficiency) of Revenues and Other Sources over Expenditures and Other Uses	52,517	28,260		
Fund Balance, July 1	<u>(54,539)</u>	<u>(54,539)</u>		
Fund Balance to Date	<u>(2,022)</u>	<u>(26,279)</u>		

**TAHOE REGIONAL PLANNING AGENCY**  
**EPA-Real Time**  
**STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE**  
**YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
<b>REVENUES</b>				
State and Local Government Revenues	45,387	23,201	22,186	51.12%
Miscellaneous Revenue	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
Total Revenues	<u>45,387</u>	<u>23,201</u>	<u>22,186</u>	<u>51.12%</u>
<b>EXPENDITURES</b>				
Salaries and Benefits	20,153	564	19,589	2.80%
Services and Supplies	2,000	-	2,000	0.00%
Training	1,500	-	1,500	0.00%
Capital Outlay	<u>14,500</u>	<u>14,500</u>	<u>-</u>	<u>100.00%</u>
Total Expenditures	<u>38,153</u>	<u>15,064</u>	<u>23,089</u>	<u>39.48%</u>
Excess (Deficiency) of Revenues over Expenditures	<u>7,234</u>	<u>8,137</u>	<u>15,371</u>	<u>112.48%</u>
Other Financing Sources (Uses):				
Operating transfers in (out)	<u>0</u>	<u>-</u>	<u>-</u>	<u>0.00%</u>
Excess (Deficiency) of Revenues and Other Sources over Expenditures and Other Uses	7,234	8,137		
Fund Balance, July 1	<u>(7,234)</u>	<u>(7,234)</u>		
Fund Balance to Date	<u>0</u>	<u>903</u>		

**TAHOE REGIONAL PLANNING AGENCY  
TRANSPORTATION FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
<b>REVENUES</b>				
Grant Revenue	610,000	127,009	482,991	20.82%
State and Local Government Revenues	1,314,307	640,982	673,325	48.77%
Miscellaneous Revenue	0	130	(130)	N/A
<b>Total Revenues</b>	<u>1,924,307</u>	<u>768,121</u>	<u>1,156,186</u>	<u>39.92%</u>
<b>EXPENDITURES</b>				
<b>TRANSPORTATION</b>				
Salaries and Benefits	57,526	23,243	34,283	40.40%
Travel	194	2,080	(1,886)	1072.16%
Services and Supplies	4,204	9,637	(5,433)	229.23%
Admin & Overhead	28,476	17,046	11,430	59.86%
Training	3,541	1,605	1,936	45.33%
Contracts	0	2,251	(2,251)	N/A
Capital Outlays	0	-	0	0.00%
<b>TOTAL</b>	<u>93,941</u>	<u>55,862</u>	<u>38,079</u>	<u>59.46%</u>
<b>RSTP EXCHANGE FUNDS</b>				
Salaries and Benefits	12,240	7,467	4,773	61.00%
Services and Supplies	0	-	0	0.00%
Admin & Overhead	8,293	5,476	2,817	66.03%
Contracts	2,428	-	2,428	0.00%
<b>TOTAL</b>	<u>22,961</u>	<u>12,943</u>	<u>10,018</u>	<u>56.37%</u>
<b>TDA</b>				
Salaries and Benefits	34,883	27,561	7,322	79.01%
Services and Supplies	9,394	7,274	2,120	77.43%
Admin & Overhead	23,634	20,213	3,421	85.53%
Contracts	8,024	1,034	6,990	12.89%
Capital Outlays	0	-	0	0.00%
<b>TOTAL</b>	<u>75,935</u>	<u>56,082</u>	<u>19,853</u>	<u>73.86%</u>
<b>FHWA PL (CA)</b>				
Salaries and Benefits	248,459	140,406	108,053	56.51%
Services and Supplies	7,698	6,186	1,512	80.36%
Admin & Overhead	168,343	102,974	65,369	61.17%
Training	1,880	6	1,874	0.32%
Contracts	0	2,866	(2,866)	N/A
Capital Outlay	0	-	0	0.00%
<b>TOTAL</b>	<u>426,380</u>	<u>252,438</u>	<u>173,942</u>	<u>59.20%</u>
<b>FHWA PL (NV)</b>				
Salaries and Benefits	27,539	33,629	(6,090)	122.11%
Services and Supplies	272	875	(603)	321.69%
Admin & Overhead	18,659	24,663	(6,004)	132.18%
Contracts	0	1,023	(1,023)	N/A
<b>TOTAL</b>	<u>46,470</u>	<u>60,190</u>	<u>(13,720)</u>	<u>129.52%</u>

**TAHOE REGIONAL PLANNING AGENCY  
TRANSPORTATION FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
<b>PUBLIC LANDS &amp; HIGHWAYS AGREMT #2</b>				
Salaries and Benefits	231,324	101,954	129,370	44.07%
Travel	776	5	771	0.64%
Services and Supplies	462	21,747	(21,285)	4707.14%
Admin & Overhead	156,733	74,773	81,960	47.71%
Training	1,781	15	1,766	0.84%
Contracts	217,446	82,017	135,429	37.72%
Capital Outlay	0	-	0	0.00%
TOTAL	<u>608,522</u>	<u>280,511</u>	<u>328,011</u>	<u>46.10%</u>
<b>SHA</b>				
Salaries and Benefits	0	-	0	0.00%
Services and Supplies	0	625	(625)	N/A
Contracts	215,000	166,785	48,215	77.57%
Capital Outlay	0	-	0	0.00%
TOTAL	<u>215,000</u>	<u>167,410</u>	<u>47,590</u>	<u>77.87%</u>
<b>RTIP</b>				
Contracts	<u>450,000</u>	<u>70,130</u>	<u>379,870</u>	<u>15.58%</u>
TOTAL	<u>450,000</u>	<u>70,130</u>	<u>379,870</u>	<u>15.58%</u>
<b>SP&amp;R CA</b>				
Contracts	<u>100,000</u>	-	<u>100,000</u>	<u>0.00%</u>
TOTAL	<u>100,000</u>	-	<u>100,000</u>	<u>0.00%</u>
Total Expenditures	<u>2,039,209</u>	<u>955,566</u>	<u>1,153,773</u>	<u>46.86%</u>
Excess (Deficiency) of Revenues over Expenditures	<u>(114,902)</u>	<u>(187,445)</u>	<u>(302,347)</u>	
<b>Other Financing Sources (Uses):</b>				
Operating transfers in (out)	<u>165,887</u>	<u>141,495</u>	<u>24,392</u>	<u>85.30%</u>
Excess (Deficiency) of Revenues and Other Sources over Expenditures and Other Uses	50,985	(45,950)		
Fund Balance, July 1	<u>(38,387)</u>	<u>(38,387)</u>		
Fund Balance to Date	<u>12,598</u>	<u>(84,337)</u>		

**TAHOE REGIONAL PLANNING AGENCY  
CAPITAL EXPENDITURE FUND  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE  
YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
<b>REVENUES</b>				
State and Local Government Revenues	0	-	0	0.00%
Miscellaneous Revenue	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
Total Revenues	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
<b>EXPENDITURES</b>				
<b>NEW FACILITY</b>				
Services and Supplies	0	-	0	0.00%
Contracts	82,166	-	82,166	0.00%
Capital Outlay	<u>29,664</u>	<u>20,583</u>	<u>9,081</u>	<u>69.39%</u>
Total Expenditures	<u>111,830</u>	<u>20,583</u>	<u>91,247</u>	<u>18.41%</u>
<b>FINANCE FUND ACCOUNTING SYSTEM</b>				
Contracts	<u>16,996</u>	<u>13,334</u>	<u>3,662</u>	<u>78.45%</u>
Total Expenditures	<u>16,996</u>	<u>13,334</u>	<u>3,662</u>	<u>78.45%</u>
<b>IT COMPUTER UPGRADE</b>				
Hardware/Software	<u>110,000</u>	<u>104,810</u>	<u>5,190</u>	<u>95.28%</u>
Total Expenditures	<u>110,000</u>	<u>104,810</u>	<u>5,190</u>	<u>95.28%</u>
Total Expenditures	<u>238,826</u>	<u>138,727</u>	<u>100,099</u>	<u>58.09%</u>
Excess (Deficiency) of Revenues over Expenditures	<u>(238,826)</u>	<u>(138,727)</u>	<u>100,099</u>	
Other Financing Sources (Uses):				
Operating transfers in (out)	<u>110,000</u>	<u>110,000</u>	<u>-</u>	<u>100.00%</u>
Excess (Deficiency) of Revenues and Other Sources over Expenditures and Other Uses	(128,826)	(28,727)		
Fund Balance, July 1	<u>128,827</u>	<u>128,827</u>		
Fund Balance to Date	<u>1</u>	<u>100,100</u>		

**TAHOE REGIONAL PLANNING AGENCY**  
**TTD**  
**STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE**  
**YEAR TO DATE AS OF FEBRUARY 29, 2004**

	<u>BUDGET</u>	<u>YEAR-TO-DATE</u>	<u>VARIANCE</u>	<u>% TO DATE</u>
<b>REVENUES</b>				
State and Local Government Revenues	3,589,500	831,598	2,757,902	23.17%
Miscellaneous Revenue	<u>100,000</u>	<u>63,156</u>	<u>36,844</u>	<u>63.16%</u>
Total Revenues	<u>3,689,500</u>	<u>894,754</u>	<u>2,794,746</u>	<u>24.25%</u>
<b>EXPENDITURES</b>				
<b>RENTAL CAR MITIGATION FUND</b>				
Services and Supplies	38,700	98,753	(60,053)	255.18%
Contracts	<u>50,000</u>	<u>-</u>	<u>50,000</u>	<u>0.00%</u>
TOTAL	<u>88,700</u>	<u>98,753</u>	<u>(10,053)</u>	<u>111.33%</u>
<b>DOUGLAS COUNTY</b>				
Contracts	<u>121,500</u>	<u>-</u>	<u>121,500</u>	<u>0.00%</u>
TOTAL	<u>121,500</u>	<u>-</u>	<u>121,500</u>	<u>0.00%</u>
<b>FTA GRANTS</b>				
FTA Transit Operating Asst	0	-	0	0.00%
Capital Outlay	<u>2,500,000</u>	<u>560,240</u>	<u>1,939,760</u>	<u>22.41%</u>
TOTAL	<u>2,500,000</u>	<u>560,240</u>	<u>1,939,760</u>	<u>22.41%</u>
<b>CA RTSGP</b>				
Capital Outlay	<u>968,000</u>	<u>208,534</u>	<u>759,466</u>	<u>21.54%</u>
TOTAL	<u>968,000</u>	<u>208,534</u>	<u>759,466</u>	<u>21.54%</u>
Total Expenditures	<u>3,678,200</u>	<u>867,527</u>	<u>2,810,673</u>	<u>23.59%</u>
Excess (Deficiency) of Revenues over Expenditures	<u>11,300</u>	<u>27,227</u>	<u>15,927</u>	
Other Financing Sources (Uses):				
Operating transfers in (out)	<u>0</u>	<u>-</u>	<u>0</u>	<u>0.00%</u>
Excess (Deficiency) of Revenues and Other Sources over Expenditures and Other Uses	11,300	27,227		
Fund Balance, July 1	<u>130,532</u>	<u>130,532</u>		
Fund Balance to Date	<u>141,832</u>	<u>157,759</u>		





# TAHOE REGIONAL PLANNING AGENCY

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## MEMORANDUM

Date: March 9, 2004  
To: TRPA Governing Board  
From: TRPA Staff  
Subject: Resolution of Enforcement Action, Robert McIntyre, Unauthorized Tree Removal, 1352 Kings Way, Placer County, APN 112-220-11

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Alleged Violation Type: Unauthorized/unapproved removal of trees larger than six inches diameter at breast height (dbh).

Responsible Party: Robert McIntyre

Responsible Party's Representative: Robert Henderson, Esq.

Location: 1352 Kings Way, Placer County, APN 112-220-11

Agency Staff: Jesse Jones, Associate Environmental Specialist II, CA RPF #2545, and Jordan Kahn, Assistant Agency Counsel

Staff Recommendation: TRPA staff recommends that the Governing Board accept the proposed Settlement Agreement (Exhibit A, attached). McIntyre agrees to remit a \$35,000 payment to TRPA within ninety days of Governing Board approval and to implement a TRPA-approved forest health restoration plan on the site affected by the violation.

Violation Summary: On September 27, 2002, TRPA staff was reviewing a tree removal permitting request at 1350 Kings Way, when staff noticed cut trees on the ground in the back yard at 1352 Kings Way, the site of a home under construction. Staff visited the site and noted that although the cut trees were marked with blue paint, there was reason to question whether some trees had been approved for removal by TRPA or its designee, the California Department of Forestry and Fire Protection (CDF).

TRPA staff investigated the tree removals, examining physical evidence and interviewing involved parties. In a written response to the TRPA inquiry, McIntyre stated that he was responsible for tree removals on the property, and he produced a tree removal permit issued by CDF in the year 2000.

Since 1998, TRPA has supplied CDF with tree marking paint containing a proprietary tracer ingredient. This paint has been used in all CDF tree removal permitting. TRPA staff submitted samples of paint taken from the cut trees to the paint manufacturer for analysis. Based on laboratory results and other physical evidence, staff determined that seven trees larger than six inches diameter at breast height (dbh) had been marked with non-TRPA paint and removed without TRPA/CDF authorization. These seven trees included one Jeffrey pine (28" dbh), in

JJ  
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CONSENT CALENDAR NO. 2

excellent health, and six white fir trees ranging from 11" to 26" dbh, which varied in health and soundness.

McIntyre acknowledged that he directed his workers to cut the trees. However, he said he knew nothing about unauthorized tree marking. Staff determined that enhancement of views of Lake Tahoe was the most likely motive for tree removal, and staff interviewed McIntyre about this. McIntyre said he had already sold the as yet to be built house when the tree removal occurred, and that view enhancement was never discussed in the sale. Interviews with the buyer and realtor involved yielded no additional information on who marked trees to improve views.

TRPA Code Ordinances Violated: The above activity resulted in violation of the TRPA Code of Ordinances, Section 71.1, which states that all tree removal, excluding that exempted in Chapter 4, requires TRPA approval. Seven live trees larger than six inches diameter at breast height were removed without TRPA authorization.

Violation Resolution: The \$35,000 penalty is consistent with past settlements for similar violations and is equivalent to \$5,000 for each of the seven trees removed without authorization.

The resolution also requires that a forest health restoration plan be implemented at the site of the unauthorized tree removal. This plan will require that McIntyre plant trees to restore the forest on this property. Some large trees will be planted to address immediately the potential scenic impacts of tree removal, while smaller native conifer seedlings are expected to outperform this nursery stock in future decades. The current landowner, Dave Padmos, has verbally agreed to maintain the reforestation project. The proposed settlement agreement allows for reforestation on another site if reforestation here becomes infeasible.

Required Actions: Agency staff recommends that the Governing Board resolve the alleged violation by making a motion based on this staff summary and the evidence contained in the record to ratify the proposed Settlement Agreement, attached.

If there are any questions about this Agenda Item, please call Jesse Jones, Associate Environmental Specialist II, at (775) 588-4547, ext. 266.

## Exhibit A

### TAHOE REGIONAL PLANNING AGENCY

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### SETTLEMENT AGREEMENT

This Settlement Agreement is made by and between Robert McIntyre ("McIntyre") and the Tahoe Regional Planning Agency ("TRPA").

This Settlement Agreement represents full and complete compromise and settlement of the certain violations alleged by TRPA, as described below:

On September 27, 2002, TRPA staff inspected the real property then owned by McIntyre located at 1352 Kings Way, Kings Beach, Placer County, California, having Assessor's Parcel Number 112-220-011 ("Subject Property"). The Subject Property was under development pursuant to a TRPA Single Family Dwelling Permit (# 20029146). Staff observed that trees marked with blue paint had been removed from the Subject Property. TRPA staff subsequently determined that seven trees greater than six inches diameter-at-breast height were removed from the Subject Property after being marked with paint other than that used by TRPA and its designee, the California Department of Forestry and Fire Protection ("CDF"). These seven trees were removed without authorization for the disallowed purpose of private view enhancement in violation of the TRPA Code of Ordinances. Although McIntyre removed the seven trees from the Subject Property, TRPA lacks any direct evidence that McIntyre was responsible for marking the trees to mimic TRPA or CDF authorization for removal.

During the September 27, 2002, site inspection, TRPA staff further observed excavation spoils improperly stored on the Subject Property. After McIntyre was informed that the excavation spoils could not remain on the Subject Property, they were promptly removed.

This Settlement Agreement is conditioned upon approval by the TRPA Governing Board. Execution of the agreement prior to Board action shall not be binding on either party in the event that the Board does not authorize settlement on the terms set forth below:

In order to fully resolve the matter, the parties hereby agree as follows:

1. McIntyre shall pay \$35,000 to TRPA pursuant to the following schedule:
  - \$15,000 within 30 days of Governing Board approval;
  - \$10,000 within 60 days of Governing Board approval; and
  - \$10,000 within 90 days of Governing Board approval.
2. McIntyre shall plant replacement trees the Subject Property pursuant to a TRPA-approved reforestation plan. McIntyre shall within 30 days of Governing Board approval

submit a proposed restoration plan to TRPA. McIntyre shall implement the TRPA-approved restoration plan no later than October 30, 2004. In the event that the owner of the Subject Property does not authorize the reforestation plan, McIntyre shall undertake comparable reforestation work on other property approved in advance by TRPA.

3. If McIntyre fails to comply with each and every action required by this Settlement Agreement, McIntyre confesses to judgment against him and in favor of TRPA in the amount of \$70,000 (payable immediately) and an injunction to enforce the terms of this Settlement Agreement. McIntyre also agrees to pay all reasonable attorneys fees and costs associated with collecting the increased settlement of \$70,000. The confession of judgment shall not trigger unless McIntyre is in default of this Settlement Agreement for more than 10 days after written notice is provided by TRPA to both McIntyre and his legal counsel.
4. TRPA shall release McIntyre of all claims arising out of the actions described in this Settlement Agreement.

McIntyre has read this Settlement Agreement and understands all of its terms. McIntyre has executed this Settlement Agreement voluntarily and with full knowledge of its significance. McIntyre has been offered the opportunity to review the terms of this Settlement Agreement with an attorney prior to executing the same.

McIntyre acknowledges TRPA's contention that the above-described activities constitute a violation of TRPA regulations. McIntyre agrees to comply with all applicable TRPA requirements in the future.

Signed:

\_\_\_\_\_  
Robert McIntyre

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Singlaub, Executive Director  
Tahoe Regional Planning Agency

\_\_\_\_\_  
Date

## TAHOE REGIONAL PLANNING AGENCY

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### MEMORANDUM

March 9, 2004

To: TRPA Governing Board

From: TRPA Staff

Subject: Resolution of Enforcement Action, Mr. Gary Davis  
165 River Road, Tahoe City, Placer County, California  
Assessor's Parcel Number (APN) 094-190-06

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Responsible Party: Mr. Gary Davis.

Location: 165 River Road, Tahoe City, Placer County, California, Assessor's Parcel Number (APN) 094-190-066, the "Davis Property".

Agency Staff: Gretchen Gibson, Associate Environmental Specialist

Recommendation: Staff recommends that the Governing Board accept the proposed Settlement Agreement (attached as Exhibit A) in which Davis pays \$8,000 to TRPA.

Alleged Violation Description: Responding to a referral of a project application from the Project Review Division to the Environmental Compliance Division in November of 2003, TRPA Environmental Compliance staff inspected the Davis Property. TRPA staff observed that construction had commenced on a structure within the scenic corridor without TRPA review or approval in violation of TRPA regulations. This unauthorized construction includes an increase in building dimensions, conversion of residential units to commercial floor area, the enclosure of a breezeway to create additional commercial floor area and excavation deeper than five feet within a stream environment zone in close proximity to the Truckee River. Although an application for this work had been received by TRPA and the work is most likely approvable, TRPA had not issued a permit before the construction commenced.

The above-described activities violate the following sections of the TRPA Code of Ordinances:

- 4.1 Applicability: Construction that would require a TRPA permit commenced without the review and approval of TRPA.
- 64.7.B Excavations: Excavation below a depth of five feet had taken place in close proximity to the Truckee River without the preparation of a soils/hydrologic report prepared by a qualified professional and without the review and approval of TRPA.

- 33.3.A Requirement of Allocation: Enclosure of an area had commenced which would have resulted in additional commercial floor area without the review and approval of TRPA.
- 33.7 Election of Conversion of Use: Existing residential units were converted to commercial floor area without the review and approval of TRPA.

Proposed Settlement: TRPA staff recommends that the Governing Board approve the proposed Settlement Agreement (Exhibit A) in which the party agrees to the following:

1. Davis shall pay TRPA \$8,000 pursuant to the following schedule:
  - \$3,000 within 30 days of Governing Board approval;
  - \$3,000 within 60 days of Governing Board approval; and
  - \$2,000 within 90 days of Governing Board approval.Of this amount, \$206,000 will be paid as a penalty and \$2,000 will be paid as a contribution to TRPA's environmental education fund.
2. Davis shall within 30 days of Governing Board approval submit to TRPA a complete soils/hydrologic survey application and double filing fee of \$306.00.
3. If Davis fails to comply with all actions required by this Settlement Agreement, Davis confesses to judgment against him and in favor of TRPA in the amount of \$16,000 (payable immediately) and an injunction to enforce the terms of this Settlement Agreement. Davis also agrees to pay all reasonable attorneys fees and costs associated with collecting the increased settlement of \$16,000.
4. TRPA shall release Davis of all claims arising out of the actions described in this Settlement Agreement.

Following is a statement of the facts supporting the determination of a violation: While completing field inspections in November of 2003, TRPA Project Review staff noted that construction had commenced on the Davis Property although a TRPA permit had not been issued. After verifying that construction was underway, the property owner was notified in writing by Project Review staff that the matter was being referred to the TRPA Environmental Compliance Division.

Environmental Compliance staff visited the Davis Property on November 24, 2003 and confirmed that construction had commenced. A portion of the building had increased in height and an exterior hallway had been partially enclosed. (When fully enclosed, this would constitute new commercial floor area.) In addition, two residential units were being used for commercial purposes. A Cease and Desist order was issued by Environmental Compliance staff on December 1, 2003. A 2<sup>nd</sup> Cease and Desist Order was issued by TRPA staff on December 19, 2003. Work had continued on the project including the installation of windows to further, although not completely, enclose an exterior hallway.

It was later discovered by TRPA staff that Placer County staff issued their permit based on a Qualified Exempt Declaration filed at the TRPA front counter. The Qualified Exempt Declaration for window replacement and siding repair was interpreted by Placer County personnel to be an approval for the project. Normally, Placer County does not release a permit prior to the

issuance of a TRPA permit. The Placer County approved plans which were provided to the contractor would normally provide the contractor with assurances that the necessary approvals from TRPA had been obtained. For this reason and based on an interview with the contractor TRPA staff determined that the contractor should not be held responsible in this case.

It was also discovered by TRPA staff that an infiltration system had been installed on the property during the fall of 2001. During the installation, excavation deeper than 5 feet had taken place without the completion of a soils/hydrologic survey. This area has been backfilled and paved and will require further investigation by TRPA staff through the review of a soils hydrologic survey.

TRPA staff believes that the project as proposed could be approved. The project application has been reviewed to determine consistency with TRPA regulations and is scheduled for the March 18, 2004 Hearings Officer public hearing. A draft permit has been prepared. The draft permit includes a Special Condition that the violation be resolved prior to the acknowledgement of the TRPA permit.

TRPA staff believes that Davis's commencement of construction prior to issuance of a TRPA permit constituted a willful violation of TRPA regulations. Mr. Davis is a land use consultant and engineer who has had years of experience with the TRPA permitting process. In addition, he admits that he deliberately started work without a TRPA permit. TRPA staff believes that Davis may have misrepresented the work encompassed by the Qualified Exempt Declaration to Placer County staff.

Violation Resolution: TRPA staff recommends that the Governing Board accept the proposed Settlement Agreement, through which the Agency will receive \$8,000 (to be paid following the schedule outlined in the Settlement Agreement) for the unauthorized construction activities. Of this amount, \$296,000 will be paid as a penalty and \$2,000 will be paid as a contribution to TRPA's environmental education fund. TRPA staff believes that this penalty will deter future unauthorized construction by Davis and other consultants in the basin. The proposed Settlement Agreement is consistent with past settlements, and Davis has agreed in writing to the proposed settlement terms to resolve the alleged violation. The Settlement Agreement is not binding upon the TRPA Governing Board.

Documentary Evidence supporting the determination of a violation includes photographs of the site during construction. These documents are in TRPA's possession and may be reviewed at the TRPA Offices.

The Tahoe Regional Planning Compact Article VI (k) Compliance provides for enforcement and substantial penalties for violations of TRPA ordinances or regulations.

*Any person who violates any ordinance or regulation of the Agency is subject to a civil penalty not to exceed \$5,000 and an additional civil penalty not to exceed \$5,000 per day, for each day on which a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.*

Davis Staff Summary  
March 9, 2004  
Page 4 of 5

Required Actions: Agency staff recommends that the Governing Board resolve the alleged violation by making a motion to ratify the proposed SETTLEMENT AGREEMENT (Exhibit A), based on this staff summary and the evidence contained in the record.

If there are any questions regarding this agenda item, please contact Gretchen Gibson at (775) 588-4547, extension 261.



**Exhibit A**

**TAHOE REGIONAL PLANNING AGENCY**

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SETTLEMENT AGREEMENT

This Settlement Agreement is made by and between Gary Davis ("Davis"), and the Tahoe Regional Planning Agency ("TRPA").

This Settlement Agreement represents full and complete compromise and settlement of the certain violations alleged by TRPA, as described below:

TRPA Environmental Compliance staff inspected the real property located within the Highway 89 scenic corridor at 165 River Road, Placer County, California, having Assessor's Parcel Number 094-190-06 (the "Davis Property"). Staff observed construction activities on the Davis Property that had commenced without TRPA review or approval in violation of TRPA regulations. This unauthorized work included an increase in building dimensions, conversion of residential units to commercial floor area, and excavation deeper than five feet within a stream environment zone in close proximity to the Truckee River. Although an application for this work had been received by TRPA and the work is most likely approvable, TRPA had not issued a permit before the construction commenced.

This Settlement Agreement is conditioned upon approval by the TRPA Governing Board. Execution of the agreement prior to Board action shall not be binding on either party in the event that the Board does not authorize settlement on the terms set forth below:

In order to fully resolve the matter, the parties hereby agree as follows:

1. Davis shall pay TRPA \$8,000 pursuant to the following schedule:
  - \$3,000 within 30 days of Governing Board approval;
  - \$3,000 within 60 days of Governing Board approval; and
  - \$2,000 within 90 days of Governing Board approval.Of this amount, ~~\$206,000~~ will be paid as a penalty and \$2,000 will be paid as a contribution to TRPA's environmental education fund.
2. Davis shall within 30 days of Governing Board approval submit to TRPA a complete soils/hydrologic survey application and double filing fee of \$306.00.
3. If Davis fails to comply with all actions required by this Settlement Agreement, Davis confesses to judgment against him and in favor of TRPA in the amount of \$16,000 (payable immediately) and an injunction to enforce the terms of this Settlement Agreement. Davis also agrees to pay all reasonable attorneys fees and costs associated with collecting the increased settlement of \$16,000.

4. TRPA shall release Davis of all claims arising out of the actions described in this Settlement Agreement.

Davis has read this Settlement Agreement and understands all of its terms. Davis has executed this Settlement Agreement voluntarily and with full knowledge of its significance. Davis has been offered the opportunity to review the terms of this Settlement Agreement with an attorney prior to executing the same.

Davis acknowledges that the activities described in this Settlement Agreement constitute a violation of TRPA regulations. Davis agrees to comply with all applicable TRPA requirements in the future.

Signed:

\_\_\_\_\_  
Mr. Gary Davis

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Singlaub, Executive Director  
Tahoe Regional Planning Agency

\_\_\_\_\_  
Date

# TAHOE REGIONAL PLANNING AGENCY

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## MEMORANDUM

Date: March 9, 2004  
To: TRPA Governing Board  
From: TRPA Staff  
Subject: Resolution of Enforcement Action, Wayne Arriola,  
unauthorized grading and vegetation removal,  
1983 H Street, South Lake Tahoe, California, APN 32-171-031

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Alleged Violation Type: Unauthorized grading and vegetation removal

Responsible Party: Wayne Arriola ("Arriola")

Responsible Party's Representative: Philip Kreitlein, esq.

Location: 1983 H Street, South Lake Tahoe, California, APN 32-171-031 ("Arriola Property")

Agency Staff: Sloan Gordon, Associate Environmental Specialist; Jordan Kahn, Assistant Agency Counsel

Staff Recommendation: Staff recommends that the Governing Board accept the proposed Settlement Agreement, in which Arriola pays a settlement of \$7,500 and restores the Arriola Property.

Alleged Violation Description: A vacant lot (owned by Arriola) was top graded to remove vegetation and level a portion of the lot for future development. The lot has a buildable IPES score and an allocation. Approximately 30,000 square feet of native vegetation was removed, soil disturbance was estimated at 400 cubic yards. Two sections of curb were removed, allowing soil to discharge onto H Street and Highway 50/89. TRPA neither reviewed nor approved an application for grading and vegetation removal on the Arriola Property. The grading and vegetation removal was conducted by Arriola's brother (a carpenter from Las Vegas) in anticipation of future development on the Arriola Property.

Proposed Settlement: TRPA staff recommends that the Governing Board approve the proposed Settlement Agreement (Exhibit A) through which the parties agree as follows:

1. Arriola shall pay \$7,500 to TRPA pursuant to the following schedule:
  - \$2,500 within 30 days of Governing Board approval;
  - \$2,500 within 60 days of Governing Board approval; and
  - \$2,500 within 90 days of Governing Board approval.
2. Arriola shall by June 1, 2004, weather permitting, restore the Arriola Property pursuant to a TRPA-approved restoration plan.
3. If Arriola fails to comply with each and every action required by this Settlement

Agreement, Arriola confesses to judgment against him and in favor of TRPA in the amount of \$15,000 (payable immediately) and an injunction to enforce the terms of this Settlement Agreement. Arriola also agrees to pay all reasonable attorneys fees and costs associated with collecting the increased settlement.

4. TRPA shall release Arriola of all claims arising out of the actions described in this Settlement Agreement.

Following is a statement of the facts supporting the determination of a violation: On October 22, 2003, TRPA staff inspected the real property located at 1983 H Street, South Lake Tahoe, California, having Assessor's Parcel Number 32-171-031 ("Arriola Property"). A fence had recently been constructed on the Arriola Property pursuant to a permit issued by the City of South Lake Tahoe. Staff observed unauthorized grading on the Arriola Property involving approximately 400 cubic yards of soil disturbance. Approximately 30,000 square feet of native vegetation was removed. Two sections of curb were removed, allowing soil to discharge onto H Street and Highway 50/89. Neither TRPA nor any other jurisdiction reviewed or approved an application for grading and vegetation removal on the Arriola Property. TRPA therefore determined that these activities constitute violations of the TRPA Code of Ordinances. After meeting with Arriola, TRPA ascertained that the unauthorized work was undertaken by Arriola's brother in anticipation of future development on the Arriola Property (which has a buildable IPES score and an allocation).

TRPA Code Ordinance Violated: The above activity resulted in violation of the TRPA Code of Ordinances, Chapter 4 Project Review and Exempt Activities- Section 4.2.A.4 Excavation Limits; Chapter 65 Vegetation Protection During Construction- Section 65.1 Applicability, Section 65.2.A Vegetation.

The Tahoe Regional Planning Compact Article VI (k) Compliance provides for enforcement and substantial penalties for violations of TRPA ordinances or regulations.

*Article VI of the Compact States:*

*Any person who violates any ordinance or regulation of the Agency is subject to a civil penalty not to exceed \$5,000 and an additional civil penalty not to exceed \$5,000 per day, for each day on which a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.*

Violation Resolution: TRPA staff believes that the proposed settlement is an appropriate resolution of this matter and is consistent with past settlements. After numerous meetings with Arriola, staff believes the intent was likely the result of negligence. Arriola has been extremely cooperative and has already submitted an environmental restoration plan to TRPA staff that will address the environmental harm. Arriola has agreed to the proposed settlement terms to resolve the alleged violation. This agreement is not binding upon the TRPA Governing Board.

Required Actions: Agency staff recommends that the Governing Board resolve the alleged violation by making a motion based on this staff summary and the evidence contained in the record to ratify the proposed Settlement Agreement, attached.

If there are any questions about this Agenda Item, please contact Sloan Gordon, Associate Environmental Specialist, at (775) 588-4547, ext. 314.

Attachment: Arriola Settlement Agreement (Exhibit A)

# TAHOE REGIONAL PLANNING AGENCY

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## SETTLEMENT AGREEMENT (Exhibit A)

This Settlement Agreement is made by and between Wayne Arriola ("Arriola") and the Tahoe Regional Planning Agency ("TRPA").

This Settlement Agreement represents full and complete compromise and settlement of the certain violations alleged by TRPA, as described below:

On October 22, 2003, TRPA staff inspected the real property located at 1983 H Street, South Lake Tahoe, California, having Assessor's Parcel Number 32-171-031 ("Arriola Property"). A fence had recently been constructed on the Arriola Property pursuant to a permit issued by the City of South Lake Tahoe. Staff observed unauthorized grading on the Arriola Property involving approximately 400 cubic yards of soil disturbance. Approximately 30,000 square feet of native vegetation was removed. Two sections of curb were removed, allowing soil to discharge onto H Street and Highway 50/89.

Neither TRPA nor any other jurisdiction reviewed or approved an application for grading and vegetation removal on the Arriola Property. TRPA therefore determined that these activities constitute violations of the TRPA Code of Ordinances. After meeting with Arriola, TRPA ascertained that the unauthorized work was undertaken by Arriola's brother in anticipation of future development on the Arriola Property (which has a buildable IPES score and an allocation).

This Settlement Agreement is conditioned upon approval by the TRPA Governing Board. Execution of the agreement prior to Board action shall not be binding on either party in the event that the Board does not authorize settlement on the terms set forth below:

In order to fully resolve the matter, the parties hereby agree as follows:

1. Arriola shall pay \$7,500 to TRPA pursuant to the following schedule:
  - \$2,500 within 30 days of Governing Board approval;
  - \$2,500 within 60 days of Governing Board approval; and
  - \$2,500 within 90 days of Governing Board approval.
2. Arriola shall by June 1, 2004, weather permitting, restore the Arriola Property pursuant to a TRPA-approved restoration plan.
3. If Arriola fails to comply with each and every action required by this Settlement Agreement, Arriola confesses to judgment against him and in favor of TRPA in the amount of \$15,000 (payable immediately) and an injunction to enforce the terms of this Settlement Agreement. Arriola also agrees to pay all reasonable attorneys fees and costs associated with collecting the increased settlement.
4. TRPA shall release Arriola of all claims arising out of the actions described in this Settlement Agreement.

Arriola has read this Settlement Agreement and understands all of its terms. Arriola has executed this Settlement Agreement voluntarily and with full knowledge of its significance. Arriola has been offered the opportunity to review the terms of this Settlement Agreement with an attorney prior to executing the same.

Arriola acknowledges TRPA's contention that the above-described activities constitute a violation of TRPA regulations. Arriola agrees to comply with all applicable TRPA requirements in the future.

Signed:

\_\_\_\_\_  
Wayne Arriola

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Singlaub, Executive Director  
Tahoe Regional Planning Agency

\_\_\_\_\_  
Date

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### MEMORANDUM

To: TRPA Governing Board

From: TRPA Staff

Date: March 9, 2004

Re: Authorization for Prosecution of Litigation against Michael Franklin for Unauthorized Tree Removal and Violations of TRPA Cease and Desist Order, Vacant Lot at the End of Park Avenue, Placer County, California, Assessor's Parcel Number 085-102-002

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Proposed Action: Authorize staff to prosecute litigation against Michael Franklin for civil penalties and injunctive relief for violating the Tahoe Regional Planning Compact, the TRPA Code of Ordinances, and a TRPA Cease and Desist Order.

Discussion: TRPA staff inspected the above-referenced property on July 22, 2003, and observed the recent removal of three trees greater than six inches diameter-at-breast height ("dbh"). The eight, twelve, and twelve-inch dbh fir trees were removed without authorization for the disallowed purpose of creating a storage area. On September 5, 2003, staff issued a Cease and Desist Order prohibiting further site development or storage on the site. Franklin subsequently violated these directives, and has yet to come into compliance. Despite discussions, Franklin and staff are presently unable to agree upon a resolution that can be recommended for approval to the Governing Board.

The proposed litigation will be in place of an administrative Show Cause Hearing. Pursuant to Rule 9.1(b) of the TRPA Rules of Procedure ("Rules"), the TRPA Governing Board must consent to such action.

Staff Recommendation: Staff recommends that the Governing Board authorize staff to initiate litigation, therefore bypassing the Show Cause Hearing process set forth in Article IX of the TRPA Rules.

If you have any questions concerning this agenda item, please contact Assistant Agency Counsel Jordan Kahn at (775) 588-4547, Extension 286, or via e-mail at: [jkahn@trpa.org](mailto:jkahn@trpa.org).