



AI Miller <syngineer1@gmail.com>

Public Interest Comments: Petition Against Illegal TRPA MOU with City of S Lake Tahoe

2 messages

AI Miller <syngineer1@gmail.com>

Tue, Apr 22, 2025 at 3:55 PM

To: Public Comment <publiccomment@trpa.gov>, publiccomment@cityofslt.us

Cc: John Hitchcock <jhitchcock@cityofslt.us>, Julie Regan <jregan@trpa.gov>, haley.a.williamson@gmail.com, "Graham St. Michel" <gstmichel@trpa.gov>

Please add the following comments and attachments to the public record for Item XIII, TRPA Governing Board meeting of April 23-24, 2025.

On March 25, 2025 I petitioned TRPA to cease and desist from violating the Tahoe Regional Planning Compact with the attachments no. 1 - no. 4 included here. In that Petition (p 29), I wrote that the various Memoranda of Understanding TRPA has established with various entities are of questionable legality: "For example, I have seen at least one MOU purporting that a signatory agency can be deputized to carry out and enforce TRPA's regulations, with no basis in law for that. Only TRPA can legally enforce TRPA requirements under the provisions of the Compact; each agency must enforce its own requirements. Anything else is bluff or coercion." I was referring then to the TRPA - City of S. Lake Tahoe MOU. I said in my Petition that the MOUs were a further morass of illegalities that I would return to another day. I didn't have long to wait to have the perfect example of the MOU illegality in action.

I became aware of a housing development in the City of South Lake Tahoe slated for a public hearing and approval by the City Planning Commission, a four-story 72-unit high-rise right between Pioneer Trail and US 50, that wonderful traffic bottleneck. Don't be concerned people; the City determined (for TRPA) "no significant impact" will occur.

The Planning Commission agenda is too large to attach here, but if you read the item title (below) the gist is this: In 2015 TRPA and the City developed an MOU wherein TRPA illegally delegated TRPA Permit approvals reserved to the TRPA Governing Board alone under the provisions of the Compact to City staff, enlisting the City to do its project permitting work. In this case, the Planning Commission serving as the TRPA Hearing Officer performed the perfunctory administrative chore under the MOU and approved the Project without comment over my strenuous objection, provided below, and issued a "TRPA Permit."

The MOU claim (again) is that the "final actions" by City "designees" under the MOU are not "final actions" of the TRPA because they can be appealed directly to TRPA under the illegal appeal procedures TRPA developed to deprive the people of their civil rights, as discussed in my Petition. The Planning Commission approval vote was unanimous under the recommendation of City Planning Director Hitchcock; corporate public agents stick together in an unwritten code of conduct, guided by the unlawful advice of City Attorney Stroud (loser on City's Measure T anti-vacation rental litigation). Not very fine work by my corporate hires, so-called public servants here in the City where I reside, conspiring with TRPA against the people.

I know TRPA figures, "They're planners, we're planners; what's the difference." No particular expertise required. TRPA also turns permit oversight and enforcement to its agency partner to further shed TRPA workloads. This MOU (and any approval under it) is so legally ridiculous I am almost beyond words to describe it. With this MOU the TRPA Governing Board has illegally enlisted the City to do its work under illegal regulations discussed at length in my Petition, and I've added a few comments below. The following Notice to TRPA is now applicable to the MOU with the City and hereby incorporated in my Petition of March 25, 2025:

**NOTICE OF POTENTIAL CRIMINAL AND CIVIL LIABILITY AND OTHER LEGAL SANCTIONS
NOTICE TO PRINCIPALS IS NOTICE TO AGENTS -- NOTICE TO AGENTS IS NOTICE TO PRINCIPALS**

CEASE AND DESIST COMPACT VIOLATIONS FORTHWITH:

Staff approvals of permits under illegal delegations to "persons" other than TRPA, authorities reserved to the Governing Board alone. Fraudulent project and permit exemptions. Failures to prepare Environmental Impact Statements under the MOU with the City of South Lake Tahoe, with reliance on staff-reviewed checklists, environmental assessments and findings of no significant effect for approvals. Illegal appeals for staff decisions.

Illegal and unconstitutional regulations are NULL AND VOID, WITHOUT FORCE, INVALID AND IRRELEVANT. TRPA shall act at all times in accordance with the provisions of the Compact and cease all illegal abuses of Compact requirements under invalid and unconstitutional TRPA regulations and MOUs. You are HEREBY NOTIFIED that as an appointee, official or agent of the Tahoe Regional Planning Agency you may be subject to potential civil liability for violations of the Tahoe Regional Planning Compact and/or other penalties and sanctions under state and federal laws, in your official capacity and/or in your capacity as an individual.

The following comments were provided to the Planning Commission in advance of the decision:

For the Public Record, City of South Lake Tahoe Planning Commission Meeting Agenda

Thursday, April 17, 2025 at 3:00 pm

COMMENTS IN THE PUBLIC INTEREST FOR NEW BUSINESS AGENDA ITEM 2, AS FOLLOWS:

"TRPA Multi-Family Dwelling Project Application - 3900 & 3908 Lake Tahoe Boulevard Affordable Housing Project, APNs 029-170-001 & 029-170-002, File #24-173 Requested Action / Suggested Motions: Pass a Resolution finding 1) the proposed project, as conditioned, is consistent with the TRPA Compact, Regional Plan, the TRPA Code of Ordinances, and the Tourist Core Area Plan, 2) approve the required TRPA findings, 3) the proposed project could not have a significant effect on the environment, and a Finding of No Significant Effect(FONSE) shall be prepared in accordance with Rules of Procedure Section 6.6, and 4) approve TRPA Permit #24-173, subject to the standard and special conditions therein.

CEQA Determination: TRPA projects are not subject to the California Environmental Quality Act. Responsible Staff Member(s): John Hitchcock, Planning Manager."

Dear Commissioners and Interested persons.

APPROVAL OF THIS PROJECT AS PROPOSED IS ILLEGAL: DON'T VOTE APPROVAL

I am Alan Miller, a professional civil and environmental engineer who ended a 25-year career with the Lahontan Water Board as Chief of their North Basin Regulatory Unit with my 2018 retirement in good standing. I mention this so you will understand that I have a professional and regulatory background that adds credibility to the comments for this project I will present as an attachment. I expect that those comments and the comments herein will come as a surprise and what ought to be a shocking revelation. While I am not opposed to low-income and in-fill housing development in the City, I object in principle to the City approval of this project as proposed. My comments are not about the merits or demerits of the project.

The attachment (38 pages, plus its lengthy referenced legal attachments) is a Notice of Liability and Petition I presented to TRPA and spoke about in public testimony before the TRPA Governing Board on March 26, 2025, following the publication of my public comments on TRPA's meeting website. My Petition explains in detail how the TRPA has completely mismanaged itself for decades under illegal regulations the agency concocted. It then spread its illegal and environmentally damaging procedures to others such as the City of South Lake Tahoe under its 2015 Memorandum of Understanding with TRPA.

My view of that MOU is that the City was illegally shafted by a lawyer-Director at TRPA, Joanne Marchetta, who was either so dumb she had no idea of what she was doing, or so crafty with her legal subterfuge, aided by her Chief Counsel Marshall, that she figured she could get this by without anyone noticing what was going on. Take your pick, the MOU got signed, but either way the City willingly assumed *pretend authority* under the MOU to become a *Little TRPA and assume the planning and project approval role that only the TRPA Governing Board can legally perform*. What the MOU did was take all the illegal regulations that TRPA enacted to subvert the Compact, and tasked City staff to do the work TRPA (and ONLY TRPA and its Governing Board) is legally empowered to do

under those illegal regulations. The City can't legally approve any project under the provisions of the TRPA Compact, including with a pass-through by MOU!

Since this is the first you are learning of this egregious situation I expect you won't really understand it, won't really want to believe it or take any action with regard to it. You may want to dismiss and ignore my comments, but you should understand that an affidavit stands as fact unless disputed, and that's where things stand. Undisputed. I can't recommend those things because then you may just be doing what TRPA has done, which is "acting under color of law" when actually operating beyond any legitimate legal authority; you become a TRPA accomplice in its illegal activities. As such, you could be potentially liable if challenged, say on the approval of the housing project contemplated. Maybe you are not averse to such risk, but why should the City assume ANY legal risk on behalf of the TRPA? That is City misfeasance. Why should you assume any legal risk for TRPA, personally?

I will add that whether fees are charged for City staff to do the work of TRPA (based on fees charged for its low-paid right-to-work Nevada employees) it is still all improper and illegal for City staff to be doing the work legally mandated of another agency, assume the risks and liabilities, and essentially run a permitting legal bluff. I have little doubt I could get the City permit set aside in a legal action, so blatantly illegal is the MOU. The City has ZERO authority under the Compact, except perhaps standing to sue TRPA for its illegal transgressions of the Compact, just as I did. Furthermore, the City has to provide staffing and benefits and workspace and equipment and auto fleets for people to do the permitting work of TRPA and as a long-time resident and taxpayer in the City I resent any such support of these actions and I DO NOT CONSENT. The City has essentially deprived me of the opportunity to address the TRPA Governing Board on this project and all others processed by the City under the fraudulent MOU. It's not protecting the environment. It's time to STOP, NOW.

Here's what I suggest in this case: Table the project approval to the next meeting to assess my comments before providing a recommendation to City Council, and Mr. Bass who is a prior recipient of the Petition as a TRPA Governing Board member. In the meanwhile, stop doing TRPA's work. Tell the applicant that the City will no longer make "required findings" only the TRPA can make, and that the applicant should seek their approval from TRPA while the City reconsiders the MOU it has with TRPA. Or if you want, pass the project under the WEINER exemption to CEQA for this project and move on to permitting – but only issue any City Permit (not a "TRPA permit" issued by the City) after TRPA acts. Having the City issue "a TRPA Permit" is like a bad legal joke and the City is the butt of it.nos.

I am going to keep these introductory comments short this time around in hopes you will realize the error of the MOU based on my Petition and take remedial actions. If you proceed regardless with the approval under the fraudulent legal framework I will take that as an act of rebellion and insubordination by my public servants to usurp the Constitution and protected civil rights, acting as a co-conspirator with TRPA. I don't know what I'll do in that case, and neither do you, so if you're not risk-averse, go for it!

I already commented in general about the MOUs of TRPA on page 26, of my Petition, not quite expecting that my worst concerns with TRPA would be perpetuated through the City as fully evident in the staff report and other City documents for the subject project. It's interesting that this project hearing would not have occurred at the City under the WEINER exemption, and I would have had to examine the City MOU under other circumstances. Thanks for the perfect example to make my case.

Sincerely,

Alan Miller, Professional Engineer

S. Lake Tahoe CA



Capture-Natural v Legal-Corporate Person, CHD.JPG
115K



Notice of Liability-Petition Attachments 1 - 4, 3-25-25 (A. Miller, PE).pdf
5901K



Attachment 1 - Motion for Summary Judgment (Cov+Sig).pdf
1296K



Attachment 2 -Reply and Opposition to Motion for Summary Judgement.pdf
2990K



Attachment 3 - Objection to MJ Findings and Recommendations.pdf
1513K



Attachment 4 - Anna Von Reitz - International Public Notice, Worldwide Dependency.pdf
111K

Al Miller <syngineer1@gmail.com>

Tue, Apr 22, 2025 at 4:08 PM

To: Public Comment <publiccomment@trpa.gov>, publiccomment@cityofslt.us

Cc: John Hitchcock <jhitchcock@cityofslt.us>, Julie Regan <jregan@trpa.gov>, haley.a.williamson@gmail.com, "Graham St. Michel" <gstmichel@trpa.gov>

I see I've attached the wrong "Notice of Liability . . ." file; here is the corrected one for the record, with apologies for any confusion. You may delete the other if caught in time.

[Quoted text hidden]



Notice of Liability-Petition to Redress TRPA Illegalties 3-25-25 (A. Miller, PE).pdf
1334K