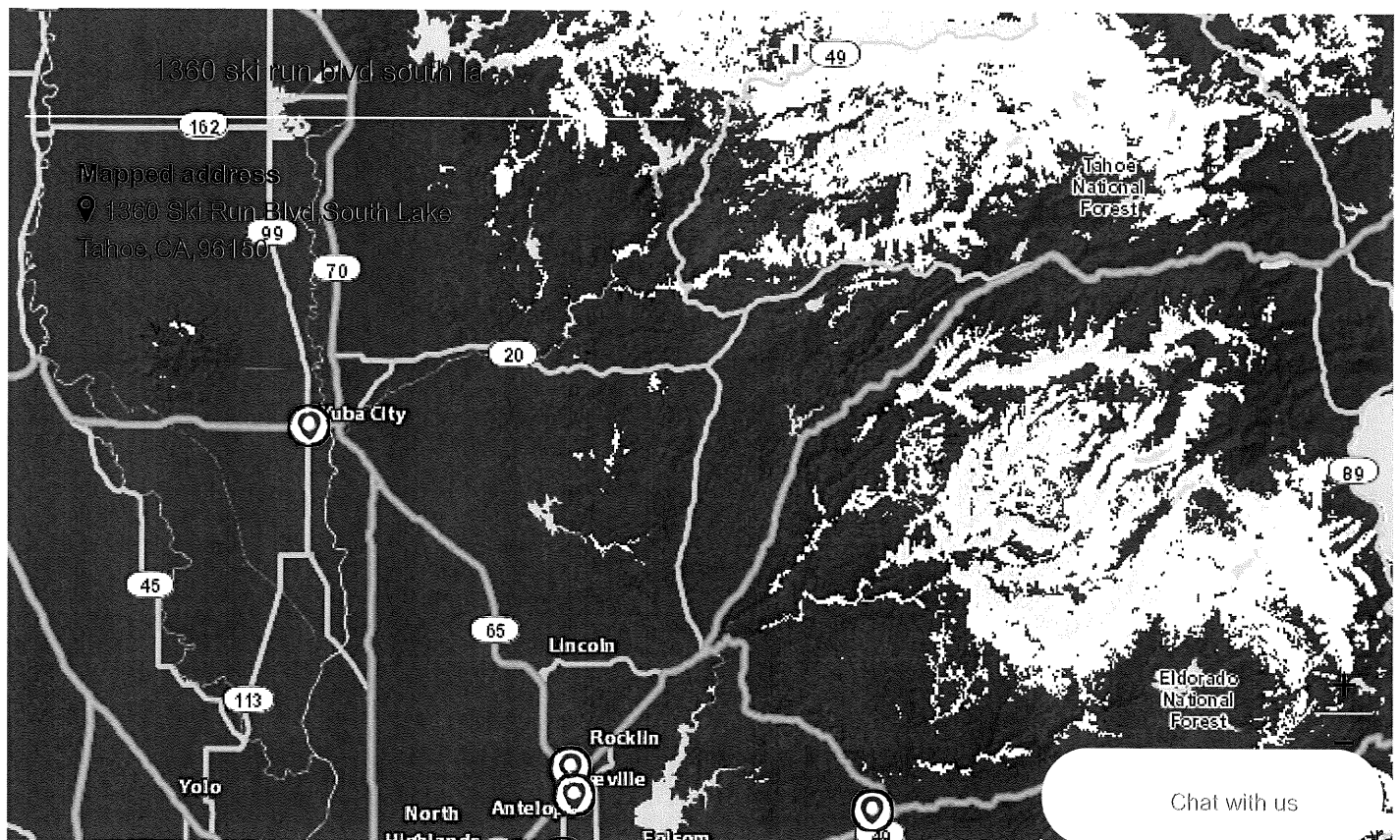


Exhibit C

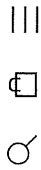
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TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD

Virtual Meeting
Via GoToWebinar

April 22, 2020

Meeting Minutes

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Mr. Yeates called the meeting to order at 11:01 a.m.

Members present: Ms. Aldean, Mr. Beyer, Ms. Berkbigler, Mr. Bruce, Mr. Cashman, Mrs. Cegavske, Ms. Faustinos, Ms. Gustafson, Mr. Hicks, Ms. Laine, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Yeates

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF AGENDA

Mr. Yeates deemed the agenda approved as posted.

IV. APPROVAL OF MINUTES

Ms. Aldean moved approval of the March 25, 2020 minutes as presented.
Motion carried.

V. TRPA CONSENT CALENDAR

1. March Financials
2. Amendments to the Nevada Division of State Lands Memorandum of Understanding
3. Release of Douglas County Water Quality Mitigation Funds (\$57,406) and Stream Environment Restoration (SEZ) Funds (\$20,109) for the Brautovich Park SEZ Restoration and Park Rehabilitation Project
4. Release of City of South Lake Tahoe Operations and Maintenance Mitigation Funds (\$250,000) towards the purchase of a replacement Vactor Truck
5. Approval of and Delegation of Authority to Refinance TRPA's Long-term Building Debt
6. Selection of TRPA's independent auditor
7. Lake Tahoe Community College Early Learning Center, 1 College Drive, South Lake Tahoe, California, APN 025-041-010, TRPA File Number ERSP2020-0046

Ms. Aldean said the Operations and Governance Committee recommended approval of items one, two, three, four, five, and six.

Ms. Aldean provided remarks in reference to item number 5. Since TRPA is not authorized to directly issue bonds, after analyzing the pros and cons, staff is recommending that Carson City be used as a conduit for the private placement of these refinancing bonds. Through the proposed

GOVERNING BOARD

April 22, 2020

resolution the Governing Board would be authorizing indebtedness in the amount not to exceed \$8.6 million for a maximum term of 40 years for the repayment obligation not to exceed \$600,000 per year. As structured, this will free up approximately \$900,000 in prior deposits used to guarantee the original bond issue. The amount of \$500,000 will be used to address deferred maintenance, repairs, and necessary upgrades to the TRPA office building. On April 6, 2020, staff issued a request for financing through the agency's financial advisor, JNA & Associates, and several banks. However, due to the pandemic and the fact that banks are overwhelmed by the Payroll Protection Program loan requests, they will not be making a specific recommendation today with respect to the placement of the loan. The committee is requesting that the board delegate the authority to finalize the refinancing details and all required documentation and agreements relative to this refinancing to the authorized agency representatives as defined in the resolution contained in the packet. In addition, the Governing Board chair, Mr. Yeates, the Legal Committee chair, Mr. Bruce, the Operations and Governance chair, Ms. Aldean, TRPA's General Counsel and Finance Director will be involved in finalizing the details of this refinancing package. They are not anticipating that there will be any changes in the basic structure of the deal with respect to the leasing and subleasing arrangement or the rate, terms, or required security as currently envisioned. They were expecting a possible delay in the meeting of the Carson City Board of Supervisors to conduct the Tax Equity and Fiscal Responsibility Act hearing or the authorizing resolution. However, staff has indicated that the Carson City Board of Supervisors intend to move forward as planned on May 7 to hold the hearing and to consider the resolution.

Mrs. Cegavske made a motion to approve the consent calendar.

Public Comments

None.

Ayes: Ms. Aldean, Mr. Beyer, Ms. Berkgigler, Mr. Bruce, Mr. Cashman, Mrs. Cegavske, Ms. Faustinos, Ms. Gustafson, Ms. Laine, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Yeates

Motion carried.

VI. ADMINISTRATIVE MATTERS

A. TRPA Board Appointment to the Tahoe Transportation District Board

Ms. Marchetta said this agenda item arises out of new legislation that was passed by California and Nevada in the 2019 legislative session. TRPA did not sponsor this legislation but are now subject to that identical legislation that was enacted in each state. It was Senate Bill 785 in California and Senate Bill 136 in Nevada. That legislation of each state authorizes a governor's office appointee from each state and is up to the states to act on that aspect of the new appointments to the Tahoe Transportation District board. There is an additional provision that provides for a TRPA representative to the Tahoe Transportation District board. This agenda item is an administrative matter that carries out that required appointment of TRPA's Tahoe Transportation District Board representative as provided in that new state legislation.

Mr. Bruce nominated Mr. Yeates to serve as the Tahoe Transportation District Board

representative. Mr. Yeates has demonstrated an expertise and interest in transportation. He's been very involved in transportation in the Bi-State Consultation Transportation for Lake Tahoe. He's been interested in making Tahoe's transportation system work and has collaborated both inside and outside of the basin on how to fund significant transportation needs. The legislative intent was to include a statewide representative. He also feels that the Tahoe Transportation District board rises to the level for the chair of TRPA to serve on that board. Although, that is not a requirement, it's most appropriate at this point in time and hopes in the future that it may become the TRPA chair because of the importance of transportation in the basin.

Ms. Aldean moved to close the nomination.

Public Comments & Questions

None.

Mr. Bruce moved to appoint Mr. Yeates as the TRPA appointee to the Tahoe Transportation District Board.

Ms. Novasel said she looks forward to Mr. Yeates joining the Tahoe Transportation District Board. She agreed that the chair of the TRPA Governing Board would be a good position to be the representative on the Tahoe Transportation District Board.

Ayes: Ms. Aldean, Mr. Beyer, Ms. Berkgigler, Mr. Bruce, Mr. Cashman, Mrs. Cegavske, Ms. Faustinos, Ms. Gustafson, Ms. Laine, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Yeates
Motion carried.

VII. PLANNING MATTERS

A. NV Energy and Liberty Utilities briefing on wildfire mitigation and preparedness in the Tahoe Basin

Liberty Utilities representatives Ms. Lawton, Environmental Program Manager and Mr. Jones, Senior Manager of Wildfire Prevention and NV Energy representative, Mr. Regan provided the presentation.

Ms. McIntyre said today's agenda has two important items related to forest health and the basin's readiness and resilience to the growing threat of wildfire. There'll be presentations from Liberty Utilities and NV Energy on their work to prevent incidents such as the Cascade Fire in Lake Tahoe or the Camp Fire that occurred in Paradise, California. We are entering the fire season and the partnership is taking actions in the basin and nearby to be more fully prepared for the summer and fall fire season. The Tahoe Fire and Fuels Team are bringing on crews soon for fuels work and setting up suppression crews. All this activity is occurring under the new Covid-19 safety protocols. Additionally, the Tahoe Fire and Fuels Team and the Fire Public Information Team have developed a coordinated public messaging for the fire season that was reviewed this past week under the multi-agency coordinating group. An added aspect of protection is working with the utility providers to ensure that utility corridor risk is mitigated which is the focus of today's presentation.

Ms. Lawton, Liberty Utilities said their service territory covers the north near Portola and to the

south in Coleville, California. They cover Placer, El Dorado, Nevada, Sierra, Plumas, Mono, and Alpine Counties on the California side of the basin. Their service territory covers 49,000 customers which most are in South Lake Tahoe.

Christmas Valley, Pioneer Trail area is a high fire threat area and is high priority to reduce the threat. The California Public Utilities Commission had all the investor owned utilities create a wildfire mitigation plan that was composed of vegetation management, system hardening, situational awareness, and public safety power shutoff. Today's presentation is focused vegetation management and system hardening because those are the interest areas to TRPA.

The wildfire mitigation plan investment includes \$40 million dollars of wildfire mitigation from 2020 to 2022. System hardening is making their system more resilient to fire. For example, if a tree fell onto their line, system hardening would be covering that conductor, so it won't catch on fire. They are also doing system survey's and are spending approximately \$6 million per year in operating and maintenance costs. A lot of that is used to repair issues that are found in the system surveys. They are also doing increased vegetation management that have an increased cost. In addition, they're adding staff. There's a big need for people to implement this new program. They're contributing \$40 million over the next two years which makes them one of the largest private investors in keeping Tahoe blue.

Mr. Jones, Liberty Utilities said there's three programs in the wildfire mitigation plan that are new and above and beyond existing programs that they are also carrying out at the same time. The first one is the tier three inspections. Their crews will be patrolling the high risk areas and inspecting for vegetation compliance annually which make up approximately 50 miles of overhead lines. Another program is that they've been working closely with the Forest Service Lake Tahoe Basin Management Unit and some of the other state partner agencies on forest resiliency corridor projects that share resources on fuels reduction projects. There are some forest practices and treatment methods that will enhance the health of the forest around the power line corridor and keep the power lines protected and safer from vegetation. They'll be removing vegetation that can grow into or fall into the utility infrastructure. The goal is to improve forest health around utility infrastructure by utilizing thinning practices that are designed to improve resiliency to insects, drought, climate change, etc. By reducing the volume of hazardous fuels around the utility infrastructure, these treatments are designed to modify fire behavior with a goal of reducing anticipated flame lengths so that active ground fire would be less likely in these areas. They're also trying to mimic other forest treatment prescriptions that are carried out in the wildland urban interface. The last program is the fuel reduction and wood management program. They are working to build out a comprehensive program around removing fuel, wood, and logs from the forest floor as a result of the vegetation management activities. Hauling logs away from the land was not a historic practice, rather they're trying to move forward with a program that can remove and reduce that fuel load that results from their activities.

The covered conductor are wires that are encased in layers of insulation that protects them when they're energized. The main purpose is to avoid sparking in the event that contact is made with things like animals, vegetation, or mylar balloons that can float into bare wires. The insulation of these wires is currently taking place on the west shore and in Coleville, and the Walker area outside of the basin. The goal is to replace approximately ten miles of line annually and may shift over time as they continue to evaluate these programs.

Historically, large trees have been used as power poles. Service wires (house drops) that come from the power line at the street to a home in some cases have been attached to a tree. They are

proactively looking for these tree attachments and are either reengineering the way it goes to the home or set a pole in place of a tree.

The expulsion fuse replacement program is designed to replace conventional fuses with non-expulsive type fuse. The fuses are protective devices that are meant to trip or open when a part of the system is overloaded. The conventional fuses can release hot gas particles and sparks when they trip so when replacing these conventional fuses with the non-expulsive type, they'll be able to contain those sparks, so they don't reach the ground. It's a six year program to have all the conventional fuses replaced. In addition, they're trying to harden all of the substations by replacing aging timber framed infrastructure with modern steel structures and updating aging circuit breakers with safer gas and vacuum style breakers.

Ms. Lawton, Liberty Utilities said the cover conductor project spans over a couple of miles of land and the focus now is on the Tahoe Basin. TRPA and the Forest Service are the permitting agencies. They have a memorandum of understanding with TRPA but because of the length of line that they are doing, the MOU usually doesn't cover the fire prevention work. They'll be going through TRPA's Hearings Officer for the fire prevention work. This summer they'll be doing covered conductor replacement in the Vikingsholm State Park from a TRPA permit that was recently issued. A lot of their lines are on forest service land and most of that land is their rural interface high priority areas that are surrounded by trees. Typically, resource surveys are required on Forest Service lands and to comply with National Environmental Policy Act requirements. Those usually take about six to twelve months to get approval on these types of projects. From the time it becomes an idea, it's usually about one to two years before the fire prevention project starts.

Mr. Regan, Fire Mitigation Specialist Fire Chief, NV Energy said their service area covers about 90 percent of the state of Nevada; 46,000 square miles. They are part of two companies combined; Nevada Power Company and Sierra Pacific Power. They became NV Energy about ten years ago and service about 1.4 million customers.

In the last legislation, Senate Bill 329 that was presented by the Nevada Fire Chiefs requiring utility companies to provide a natural disaster protection plan (NDPP) to be submitted to the public utility commission for approval. It's to be resubmitted every three years and updated on an annual basis. They submitted their NDPP on February 28, 2020 to the Nevada Public Utility Commission which has a 180-days to review and approve the plan. Prior to this, they had a plan in place internally on how the company would respond to a disaster.

In the Natural Disaster Protection Plan that was submitted incorporates wildland fires, blizzards, earthquakes, flooding, severe wind events, landslides, and avalanches. In the next three years when they resubmit, they'll look at the additional natural disasters such as tornadoes, hailstorms, and heatwaves.

The first section of the plan does a risk based approach. They worked with the University of Nevada Reno and other agencies to analyze the wildland threat and other disaster threats in Nevada and ranked them one through three. Three is most dangerous which is the Tahoe Basin and Mt. Charleston area.

The second is the operational practices. Their smart system can detect during the wildland mode when something enters the line and the power goes off, it won't try to re-trip. This prevents sparking and the possibility of a wildland fire. They've been doing this in the Tahoe Basin for approximately eight years and now has been implemented at Mt. Charleston.

Next is the inspections and corrections. They've increased their inspections in the tier three areas

on an annual basis. All inspections have been completed and corrections made in the Tahoe Basin.

They're also doing system hardening like Liberty Utilities. In addition, they are replacing the wooden poles with metal poles.

The vegetation management has been done in the Tahoe Basin for the past 20 years. The difference with the vegetation management plan now is that they'll also be doing clearance around the poles and also having some of the rights-of-way used as fuel breaks. Rather than just topping the tree, there may be a complete removal of the trees. They'll also be removing the ground vegetation because of the wildland code and Senate Bill 329 that requires the adoption of the Wildland Code, Appendix A. The Nevada State Fire Marshal also adopted as the minimum state Wildland Code the International Wildland-Urban Interface Code, Appendix A. They also have to align their fuels mitigation work with the Community Wildfire Protections Plans (CWPP).

The plan is to change the vegetation management cycles in the tier two and three areas. The tree trimming use to be up to a nine year cycle in some areas and is now a four year cycle. The vegetation management for the pole grubbing will be on a yearly cycle based on the growth. They've signed or are in the process to sign contracts with the Nevada Division of Forestry, the North Lake Tahoe Fire Protection, the Truckee Meadows Fire Protection District, North Lyon County, and Mt. Charleston to combine their fuels mitigation work. The goal is to create a healthier forest.

They're working with the Nevada Division of Forestry for funding through Senate Bill 508 with \$5 million dollars to do fuels mitigation work for the next two years. They're using some of their matching funds to help fund some of the projects that the Nevada Division of Forestry and other fire agencies are trying to implement for fuels mitigation work. There is also work being done with the Bureau of Land Management and the US Forest Service. The short term is to mitigate with removing the fuel. They will not be scattering the cuttings into the fuel, rather it will be either removed or piled to be burned.

On situational awareness they've teamed up with the University of Nevada Reno and their wildland fire cameras. They have two cameras recently installed and are planning to add ten cameras in the Tahoe Basin this year. The infrastructure is planned to handle up to 50 cameras across the state. This year, they're installing over 30 weather stations, 26 will be in northern Nevada. A meteorologist will be hired to analyze the data collected in house rather than contracting it out. They're also increasing their emergency operation department.

Proactive de-energization-Public Safety Outage Management (PSOM). The goal is to leave the power on at all times. Now, it will only be in the tier three area; the Lake Tahoe Basin and Mt. Charleston where they would de-energize if needed. Items that are considered are winds, temperature, humidity, and information from the first responders. They do weekly sampling of the vegetation and share that information with the fire agencies. If a PSOM event is possible, they start doing the field observations on a daily basis.

If there's a PSOM event, they'll have a resource center where people can charge electronic devices, there'll be additional communications, cell towers, and satellite systems. They're working with the telecom companies to boost the cell towers in the Tahoe Basin during these types of events. The green cross customers are customers that are medically required to have power for

their medical equipment and are directly contacted to ensure that their equipment is energized. They're working on additional educational campaigns. They've teamed up with Living with Fire and the fire agencies where they'll push out crucial information on how to deal with a PSOM event and safety tips on how to prepare for wildland fires and other disasters.

PSOM events will start to be determined internally about eight to ten days out. During that time, they'll reach out to their stakeholders to analyze the data on a daily basis. Three to six days out, they would order additional resources for the customer resource center and help to reenergize the system. The public will be notified two days out.

Presentations can be viewed at:

[Agenda-Item-No.-VII.A-Liberty-CalPeco-Wildfire-Mitigation-Plan.pdf](#)

[Agenda-Item-No.-VII.A-NV-Energy-Natural-Protection-Disaster-Plan.pdf](#)

Board Comments & Questions

Mr. Hicks asked if the inspections of approximately 50 miles per year in the tier three areas is their entire territory or just the Tahoe Basin.

Mr. Jones, Liberty Utilities said in Liberty's service territory they only have that one tier three area in the South Lake Tahoe, Meyers area. Most of all their other service territory is tier two. The 50 miles of overhead lines are tier three areas. Their current vegetation management practices cover a three year maintenance cycle and have other programs that are target specific such as patrolling for dead and dying trees. There are different programs that complement each other to have more regular coverage along their lines.

Mr. Hicks asked how many miles of lines Liberty has in the Tahoe Basin and how many miles of those lines are in the tier three location.

Mr. Jones, Liberty Utilities said he doesn't have the information specific to the Tahoe Basin. Liberty has approximately 730 miles of overhead lines in the whole service territory and about 80 percent of those lines are in the Tahoe Basin.

Mr. Hicks asked how and who sets the standard of ten miles per year of system hardening.

Mr. Jones, Liberty Utilities said Liberty sets the standard. They submit their programs to the California Public Utility Commission and the Wildfire Safety Division. 2020 was the first year in which they presented a three year plan as part of a new requirement. They'll get a decision around May 7 as to the acceptance of their plan. The CPUC may look at their programs and ask for them to be accelerated or to provide a justification on those numbers. Liberty's determination for the ten miles came from prioritizing areas or infrastructure that needed to be replaced anyway or prioritizing those areas that are most at risk for fire. Also, looking at resource constraints and the cost of implementing those projects.

Mr. Hicks asked how line replacements and inspections in tier three areas compare to the level of line replacements and inspections before the Camp Fire. He asked if that's caused Liberty to expand its programs in terms of inspections and replacement or are they operating at the same level as before.

Mr. Jones, Liberty Utilities said they are enhancing and accelerating the pace and scale at which they replace and inspect equipment. There are also the regulations that require inspection of their system especially around tier two and three areas. Integrated into the wildfire mitigation plan is an enhanced effort to inspect and replace proactively.

Ms. Lawton, Liberty Utilities said prior to the Camp Fire, they would inspect their system for equipment that was aging or failing and would replace that. Now, they're going through entire circuits and replacing regardless of the condition of the pole or conductor. It's getting replaced with a covered system.

Mr. Hicks said TRPA is cleaning up and modifying their ordinances. If the utility companies have comments or suggestions that TRPA should consider in their procedures, please forward them to Kat McIntyre.

Ms. Novasel said Liberty has been very proactive in removing trees and inspecting the lines in Christmas Valley. She asked what assurances Liberty has that their notifications will be better than PG&E in the event of a power outage.

Mr. Jones, Liberty Utilities said they've worked over the past year on their communications plan for their PSPS (outages). It presents challenges to ensure they reach everyone. They've not had a PSPS event so haven't had an opportunity in real time to test that. They've worked on developing their public safety partner contact data base for every county. Last summer, they met regularly with the counties at the Office of Emergency Services level, the fire, and sheriff's agencies. They've also met with NV Energy, cell phone providers, and local hospitals, and critical care facilities. To the extent that there's been a lot of effort going on, they're still welcoming opportunities to get in front of folks at the county level and organizations that have methods for outreach that can help. They use Everbridge call out system that can communicate through text, email, and phone. Then there's other plans in place for the medical baseline customers.

Ms. Novasel said she would like to have them present at one of the El Dorado County Board of Supervisor meetings.

Ms. Aldean said there's an emerging issue that has to do with the potential health and environmental impacts of 5G service. One of the objectives for the utility companies is boosting communication capability. She asked if that would involve the use 5G service.

Mr. Jones, Liberty Utilities said he doesn't have any information on that at this time.

Mr. Regan, NV Energy said if there's a 5G tower in place, it can be increased. When he said, "boost it", that's not boosting the power rather every single tower has restrictions, so it doesn't overwhelm itself for safety measures. It prioritizes cell phone calls, text messaging, and data. The first thing they stop letting the towers use is data so people can get text messages and phone calls out. The last thing would be text messaging. They allow more phone calls to come into the cell towers. They're not boosting more power. Whatever type of tower is in place, they would allow more service to allow more data and cell phone use to those towers. They boost their power to the computer components of the tower. If a 5G tower is in place, then that would be a tower being used.

Ms. Aldean asked if Liberty is collectively having issues with getting approval for the removal of hazardous materials on US Forest Service property adjacent to their rights-of-way. What authority do they have pursuant to these rights-of-way to remove potentially hazardous material on an expedited basis?

Ms. Lawton, Liberty Utilities said there are multiple avenues depending on the type of project. For example, if there's a tree that they feel will fall within 30 days, they have the ability to take care of that tree if it's on Forest Service land. Any other types of improvements require approval from the Forest Service. There are two buckets; the vegetation management (tree removal) and the covered conductor projects. They've been proactive with the Forest Service to create agreements with them. For example, they developed a categorical exclusion called the resilience corridor forest project. That allows them to share resources for vegetation management and fire prevention. It doesn't cover any of the system hardening work. Even with the categorical exclusion, the resource surveys such as biological, cultural, and noxious weeds that need to be conducted are still holding up their projects, so they are about six months to one year out even with that categorical exclusion.

Ms. Aldean asked if there's anything TRPA can do to help expedite the completion of these surveys.

Ms. Lawton, Liberty Utilities said possibly reaching out to Liberty to see if they need additional resource specialist or maybe TRPA can partner with the Forest Service on getting resource surveys conducted. She's unsure how TRPA can make the Forest Service implement the National Environmental Policy Act (NEPA).

Mr. Regan, NV Energy said they're working with the Tahoe National Forest to help speed up the process because it does take six months to one year to complete those studies. They are doing a request for proposal to contract out additional people for the Forest Service to conduct the studies to accomplish it this summer.

Public Comments & Questions

None.

VIII. PUBLIC HEARINGS

A. Lake Tahoe West Scoping and Notice of Preparation

TRPA team member Ms. Friedman provided the presentation.

Ms. Friedman said the Lake Tahoe Basin Management Unit, the California Tahoe Conservancy, and the Tahoe Regional Planning Agency released a scoping notice/notice of preparation to prepare an environmental assessment/environmental impact statement/environmental impact report per the National Environmental Policy Act, California Environmental Quality Act, and TRPA requirements. The agencies released the scoping document on April 10, 2020 through May 11, 2020 for a public comment period. The purpose of the scoping is to inform the public of the intent to prepare the environmental document for the Lake Tahoe West project as well as to solicit feedback on the proposed action to help inform the draft environmental assessment, environmental impact statement, and environmental impact report.

The Lake Tahoe Basin national ecosystems and built environment are increasingly at risk from high severity wildfire, drought, insect, and disease outbreak. A lot of work is currently being done on the landscape but is not being done at a pace that is fast enough to keep pace with the threats that are posed by these stressors. Because of these threats, a multi-jurisdictional landscape level approach to restoration was needed on federal, state, and private lands to improve the resiliency of Lake Tahoe's west shore landscape. Out of that need, the Lake Tahoe Restoration Partnership Collaborative was formed in 2016. That partnership is developing the Lake Tahoe West project and focusing on increasing the social, ecological resilience of forest, watersheds, and communities along the west shore of Lake Tahoe. The restoration partnership includes, TRPA, the Tahoe Fire and Fuels Team, the USDA Forest Service Lake Tahoe Basin Management Unit, California State Parks, the National Forest Foundation, the California Tahoe Conservancy, as well as stakeholders. The Lake Tahoe West project area comprises of approximately 59,000 acres on the west shore of Lake Tahoe. It includes land ownership by the National Forest System, which owns and manages lands as well as private and local government owned land. Treatments are prescribed on all of these land ownerships for the project.

The Lake Tahoe West Partnership laid out a thorough process to planning, developing, and implementing this project. The landscape resilience assessment was completed in 2017. That used modeling to evaluate the current condition and resilience of the west shore watersheds. The assessment found that the west shore is currently not resilient to fire, drought, and was subject to negative impacts from these stressors. The landscape restoration strategy was developed with information from the assessment that was completed in 2019. The strategy provides a science based framework to guide restoration and forest restoration on the west shore over the next two decades. The assessment and strategy both served as a foundation for the environmental document and planning the project. Currently, they are in phase three of this process which is the environmental document preparation, project planning, and the public scoping that kicks off that environmental document preparation step.

The landscape restoration strategy identified six goals that the project should keep in mind when it's being developed and designed. Forests recover from fire, drought, and insect disease and outbreaks; Fires burn at primarily low-to-moderate severity and provide ecological benefits; Terrestrial and aquatic ecosystems support native species; Healthy creeks and floodplains provide clean water, complex habitat, and a buffer from floodplains and droughts; People live safely with fire and enjoy and are stewards the land; and Restoration. All of these steps have involved a robust stakeholder engagement process. The stakeholders include representatives from the conservation community, science community, the fire protection agencies, the recreation community, and homeowners. The stakeholder group is a formal group that has met throughout the process to provide input throughout the development of the resilience assessment, the restoration strategy, and now the proposed action.

The following are the proposed actions in the scoping notice that were developed with those six goals in mind: Forest thinning-19,500 acres within the landscape; TRPA Basin-Wide Code Amendment to allow thinning with ground-based mechanized equipment on slopes up to 50 percent; Remove and/or process forest biomass from restoration treatments; Prescribed burning including strategically-placed prescribed burns to establish more frequent fuel intervals; Project-Specific Forest Plan Amendment to allow cutting trees greater than 6 inches in protective activity centers; Installation of temporary or permanent roads to access the landscape to implement treatments and upgrades to stream crossings; Temporary forest closures and access

considerations when work is being implemented in certain areas of the landscape; Forest Plan Amendment to allow some roads for the project in areas designated as Backcountry; Forest habitat restoration for species associated with old growth forest conditions; Reforestation to maintain species and genetic diversity; Meadow and aspen restoration-800 acres of meadow and 400 acres of aspen in project area; Aquatic habitat restoration for Lahontan Cutthroat Trout and Sierra Nevada Yellow-Legged Frog; and Stream restoration including 1 mile in Blackwood Creek and ½ mile in Ward Creek.

A lot of the forest on the west shore are not resilient to fire, drought, insects, and disease and are overgrown which makes them more subjective to high severity wildfire. The proposed action would involve thinning of approximately 19,500 acres to reduce overly dense forest stands, improve species composition and regeneration, reduce fuel accumulations and forest understory, increase forest heterogeneity, facilitate the growth of mid seral and late forest; reduce conifer encroachment, promote snow pack retention and allow for ecologically fire to occur on the landscape. The proposed action would allow implementing thinning treatments on approximately 2,500 acres per year which is double the amount that is currently implemented on the forest service lands now. This will help increase the pace and scale of these fuel reduction treatments. Meadows and Aspen forest in the project area are in a degraded condition. Some indicators of the degraded condition include high density of conifer trees and stream channel incision or bank instability, sensitive areas of bare soil in the meadow, presence of invasive species, and drying meadow condition. Eight hundred acres of meadow and 400 acres of Aspen, the proposed action would restore approximately 100 acres of the Aspen and 200 acres of Meadow every five years. That restoration would increase acreage of meadows and Aspen within the project area.

The proposed action is to amend TRPA's Code of Ordinances to allow mechanical based treatment on slopes between 30 to 50 percent. Currently, the code doesn't allow for the use of ground based mechanical equipment on slopes over 30 percent. This rule is in place to protect resources from equipment such as soil and vegetation. The rule is not in line with best forest practices in the industry. There is new technology that is available that can reduce the impacts. Other agencies such as Lahontan Regional Water Quality Control Board currently allows the use of ground based mechanical treatment on slopes up to 50 percent. The recommended code change would not apply across the board on all slopes but rather where the onsite conditions such as soil type deemed that it would be appropriate based on the analysis that was done in the environmental document. The use of ground based mechanical equipment as opposed to hand thinning would allow managers to remove trees greater than 14" in diameter to meet restoration objectives and reduce the number of piles that would need to be burned on site as well as increase the pace and scale of restoration. About 20 percent of the Lake Tahoe West restoration project area consists of slopes between 30 to 50 percent that may benefit from allowing ground based mechanical treatment. The proposed code change is basin wide but future projects may require additional site specific analysis to show that those conditions are appropriate for the use. The proposed action would involve the use of strategically placed prescribed burning within the project area to establish a more frequent fire interval, restore fire adaptive ecosystem processes, and reduce the risk of catastrophic fire by reducing forest fuel accumulations and maintain reduced fuel loads. The proposed action would involve implementing approximately 2,000 of prescribed burning per year. That acreage could increase as projects are implemented and the thinning treatment are completed which would allow for a more safe and effective management of wildfire. The next steps of the project include a second public scoping meeting on April 28 that will be held virtually by the Lake Tahoe Basin Management Unit. The public scoping ends on May 11. Those

comments will be used to help inform the draft environmental assessment, environmental impact statement, and environmental impact report which is scheduled to be released in the summer of 2021.

Presentation can be viewed at:

[Agenda-Item-No.-VIII.A-Lake-Tahoe-West-Scoping-Presentation.pdf](#)

Board Comments & Questions

Mr. Yeates said it's quite a project. The notice of preparation includes the work that we're going to have to do to the Code of Ordinances to address some of the issues.

Mr. Hicks said he'll coordinate with Ms. McIntyre to bring forward some of the items in this presentation today to the Forest Health and Wildfire Committee to address the specific procedures that should be considered in order to help facilitate this program.

Ms. Novasel said anytime we get this kind of project moving forward is worthy to protect our natural habitat. These catastrophic fires are getting worse and this kind of project is needed. The ability for TRPA to help make a difference is also an important key to this.

Ms. Gustafson said this is a great approach in doing a comprehensive look at that huge area of land and how we best protect it. She's pleased to see this coming forward and is a critical time for us to address this issue.

Mr. Bruce thanked everyone involved in this project. This is a lot of what we're about.

Ms. Aldean said this is a great project in many ways and very needed. She referred to page 248 of the staff packet, environmental effects analysis. She said part of the analysis will involve addressing whether the restoration treatments when implemented over the long term may actually convert forest land to non-forest uses. The debate goes on about climate change and how much is attributable to human impact and how much is a product of natural processes. She asked if the project included a cost benefit analysis to the extent that we're trying to reverse natural processes.

Ms. Friedman said right now that is not within the scope of the project but is a good thing to consider and keep in mind moving forward.

Ms. Aldean suggested that it should be addressed. Financial resources are limited and although something might be desirable in terms of turning back the clock, it may be something that's irreversible. It would be unfortunate to put money towards something that ultimately will not yield beneficial long term affects.

Mr. Marshall said what was presented today is the scoping of the environmental document. Ms. Aldean's comment relates more to whether or not the project as a whole is designed appropriately. They'll take that comment under advisement particularly because a lot of the treatments under this project are specifically designed to address climate change and the increased threat related from it. This is a good point but in terms of the actual design of the project, it has been designed to respond to climate change and to make the forest more resilient

notwithstanding the change in the climate. They can address that issue when they bring the project back to the board. For the purposes of today and is the environmental document scoped appropriately. The comment is more directed at the content of the project itself.

Ms. Aldean said she doesn't have an issue with the forest restoration aspect of the project. When there's trees encroaching on the meadow areas because of a change in climate, the question is what the long term benefits are and can they be sustained environmentally and financially.

Public Comments & Questions

Greg Lien said given the hundreds of studies that point out the negative environmental impacts from pulse modulated microwave radiation, he would have thought the lead environmental agency at Tahoe would at least be willing to analyze the issue. The Lake Tahoe West Restoration Project does not even mention the issue, even though forest health, fire danger, plant communities in stream zones and ultimately even water quality will all be impacted. In a way, he's surprised at the unwillingness to look at this in an honest intellectual manner.

What has surprised him more recently is the anger that seems to be directed at those of us who raise the issue in our very earnest desire to point out the dangers of ever-increasing levels of pulsed microwaves to human health and the environment. In the face of the media's silence on this issue, and the telecom industry's attractive promises of faster speeds and new applications, who wants to hear that there are negative impacts? He understands that, and if any of us have offended you in our desperation to be understood, please accept his apologies. It is not our desire to offend, only to speak the truth as we know it.

These are uncertain times, and it is difficult to know truth from fiction. In view of that uncertainty, shouldn't this be all the more reason to bring to bear the most recent studies that are on point? As we have said, and the telecom industry has admitted, the microwave network known as 5G is being rolled out without any recent studies as to its safety as if it were a national mandate. Should we be encouraging this at Tahoe?

A look back at the history of new technology should give us pause. The rapid development of pesticides like DDT lead to the realization that these were dangerous chemicals literally a silent spring. Monsanto was sued over Roundup and the litigation disclosed the massive efforts Monsanto used to spread disinformation and silence dissent. The nuclear industry promised safe clean energy, and now we have Fukushima continuously spewing radiation that will last for centuries and the technology to clean it up does not yet exist. New technology is attractive. In the case of cell phones and screen time, it could even be argued to be as addictive as tobacco use. It's hard to admit there are negatives to consider, but there are.

Please try not to be offended when we point out the scientific evidence of problems with pulsed microwaves or your obligations under the TRPA Compact and your Code when you consider approving new microwave transmitters and the required findings you must make. Would you be willing to at least look at the issues? Would you be willing to create a subcommittee to study this and report back to you? Just, please, don't continue to just ignore this. One day history may likely once again show that the allure of new technology may not be worth the risk.

Dennis Hayes said Happy Earth Day! The Lake Tahoe West Scoping need to develop threshold

findings pertaining to the placement and citing of radiofrequency telecommunications facilities. There is a vast and rapidly growing body of hard science proving that the radiation used by this technology is an emerging threat to the Tahoe Basin.

The most prestigious scientific journal NATURE published several articles on the effects of radiofrequency (RF) radiation on migratory birds, butterflies, bees, other insect" and mice, which make it unequivocal that RF radiation has the potential to harm, harass, or stress wildlife populations. NATURE also recently published a new study confirming RF radiation causes oxidative stress leading to DNA damage. Hundreds of scientific publications demonstrate the potential for serious adverse environmental effects to the protected Lake Tahoe ecosystem. This very fragile alpine ecosystem is along a salient migratory bird path; there is far more at stake than just the human populace. Even where cell tower antennas have ground fencing sufficient to protect humans from RF exposure above the Federal Communication Commission (FCC) limits, migratory birds, inclusive of northern goshawks, peregrine falcons, osprey, bald and golden eagles, regularly perch in the stands of trees where these antenna towers would be installed. This federally protected wildlife is certainly being exposed to radiation above the FCC's limits designed for human exposure. Peregrine Falcons and Northern Goshawks are federally protected migratory birds, that are further protected within TRPA's designated disturbance free zones.

Because Lake Tahoe is such an incredibly special and environmentally sensitive place, Congress created the TRPA in an unusual manner so as to allow it to create extraordinary environmental regulations, it even permits it to regulate radiofrequency emissions at levels below those chosen by the FCC, if necessary, to protect the basin. The science is now here that this basin does indeed need such protection.

Mono-pine antenna towers are particularly harmful as they mimic predatory bird habitat, and hence invite eagles and hawks to perch within the intense near-field radiation of 50,000-watt ERP antenna panels to their own peril. For this reason alone, the board needs to act. TRPA staff left to their own discretion have already approved a Macro Cell Antenna within the Truckee Marsh Bald Eagle Winter Nesting Site despite our national bird being expressly protected from harm by federal law! The TRPA may and must set its own alpine environment specific radiofrequency emissions limits; it is exempt from FCC restrictions pertaining to local and state governments (Lake County Estates, Inc, v. Tahoe Reg. Planning Agency, 440 US 391, 401, (1972) Carpe diem.

Nicole Rinke on behalf of the California Attorney General's office said thank you for the briefing today. They think the level of multi-jurisdictional, cross-agency collaboration here is very positive and will look forward to seeing more details as the environmental review process goes forward. At this time, we have just a couple of preliminary comments.

The scoping notice describes some of the potential impacts of changing the code to allow for mechanical removal on slopes greater than 30 percent. They appreciated the description today of the new technologies that make this feasible and will be interested to see the details of the proposed amendment so as to insure this is appropriate and without adverse environmental consequences (e.g., resource damage, erosion).

It also strikes them as a bit awkward to be proposing and analyzing a basin wide code amendment in the context of this one project. From an analysis standpoint, how will this be handled? The staff report suggests that future projects may need to do further analysis to go up to 50 percent, but

that does not seem like a given if the code amendment is approved and applies basin wide. Also, the staff report indicates that the code amendment will impact approximately 20 percent of the project area, this might suggest the "fix" is too broad relative to the scope of the problem? They hope this can be better explained as part of the process going forward.

Board Comments & Questions

Mr. Lawrence feels that all of the issues have been captured pretty succinctly for this public scoping. Given the breadth and scale of this project and with the different goals, for example, restoring one mile of Blackwood Creek and the meadow restoration in the forest, how much detail will be in the environmental document? For example, does the environmental document get into detail about their hydrology impacts or impacts for any residences along the creek. How big of an environmental document will this be to address hydrology, biological resources, etc. in so many acres.

Ms. Friedman said the team has discussed this because the project is large geographically and has a lot of proposed actions and elements in it. For example, the level of detail for the stream restoration is the intent to have enough detail in there to where they can make the necessary findings related to that particular action item. The intent would be that there would be enough information and analysis that it would be project level analysis and could forward with implementing those actions. They are doing all of that without making the document too large but honors the California Environmental Quality Act and the National Environmental Policy Act, TRPA rules, and is readable by the public as well.

Mr. Marshall said referring to "project" in the Lake Tahoe Restoration project it is a word that is not in TRPA's standard definition of what a project is. It's an amalgam of both conceptually programmatic actions as well as the ability to look at more individual level actions through general criteria that can be applied to forest thinning actions, for example that can be analyzed. If the individual project is consistent with those general descriptions that have been used in the project descriptions for those particular activities that they may be able to go forward based on this environmental document. Stream restoration is one that may have more limited ability to rely on this environmental document for their final approvals because of some of the things Mr. Lawrence mentioned. The ability to describe at this time with specificity that particular action. It will be on a case by case basis particularly with some of the more complicated restoration actions that are being described in this document. Hopefully, through the inclusion of things such as best management practices and standard approaches to stream restoration that more specific analysis that is done subsequently can be quite narrow and more efficient than if they were to start from square one on some of those more specific projects.

Mr. Lawrence said we're early in the process and agreed that we have to increase the pace and scale. He applauds the effort and is just trying to understand it.

Mr. Yeates said as he went through the document, he wondered what the California Tahoe Conservancy's role was in regard to all the forest thinning work. They've done a lot of good work on the question of forest health but can't imagine that they would be out actually doing the work. He assumed these restoration projects that would fall within the work of the California Tahoe Conservancy. It raises the question in a scoping document, the breadth of the project. If this project is going to focus principally on protecting the forest health and reducing wildfires, etc.

that's pretty immense anyway from just the west side of the Lake. Then you add other projects in that and seems to him that you're doing the opposite of things of which we used in the California Environmental Quality Act as piecemealing. But what you done, is made the breadth of the project so large; you can't get to the detail. He believes that's the criticism we'll get from the California Attorney General's Office. From a scoping perspective, those working on this need to reconsider what all is going to be covered in this document. He feels it's too big and we'll find some problems with it.

B. Tourist Core Area Plan, Pioneer/Ski Run Plan Area Statement 092 and Lakeview Heights Area Plan Statement 085 Boundary Line Amendments

Ms. Gustafson recused herself from this agenda item.

TRPA team member Ms. Fink and Mr. Hitchcock, Planning Manager, City of South Lake Tahoe made the presentation.

Ms. Fink said there is a focus on addressing the shortage of workforce housing in Lake Tahoe. Even with the Covid-19 pandemic, affordable and workforce housing will continue to be an issue moving forward. This amendment provides additional opportunities for workforce housing by providing additional height, density, and coverage needed so workforce can pencil in this location which is in close proximity to jobs, transit, and amenities. The lots that are subject to the amendment are among the sites being considered for housing mitigation for the US 50 Revitalization project that the Governing Board approved in November. However, the intent is to build affordable housing in this location regardless of the outcome of the US 50 project.

Mr. Hitchcock said the Tourist Core Area Plan was adopted by the City of South Lake Tahoe and TRPA's Governing Board in 2013. It is geographically located on the east end of town and the boundaries run from Fairway Avenue on the west to Stateline on the east with a portion of it going down Ski Run Boulevard to Pioneer Trail.

The Tourist Core Area Plan is the City's primary tourist commercial center in the south shore. It provides land use guidance for new development as well as redevelopment activities in this location. They've also adopted land use policies in the area plan that focuses on promoting a mixed land use while supporting residential development within close proximity to employment centers, commercial retail centers, and with access to recreational opportunities.

The City of South Lake Tahoe was approached by the Pacific Development Group who requested an amendment to incorporate three parcels that they currently have ownership to include those in Tourist Core Area Plan Tourist Center Mixed Use Corridor District. This amendment would affect the Tourist Core Area Plan boundary as well as the boundary for Plan Area Statement 092 and 085. Currently the three parcels that are being considered for incorporation into the Tourist Core Area Plan are one vacant parcel, one is developed with a dirt road, and one has two small cabins on it.

Pacific Development Group that holds fee title to the three parcels as well as the two adjacent parcels that are located in the Tourist Core Area Plan are proposing to develop a 77-unit affordable housing project once the amendment has been adopted.

The amendment is intended to incentivize multi-family development and make affordable housing more feasible. By incorporating these three parcels into the Tourist Core Area Plan they would be eligible for increase in density from 15 dwelling units per acre to up to 25. They would be able to have an increase in height from 42 feet to 56 feet. They would also be able to transfer in coverage up to 70 percent.

The three subject parcels are ideal for developing a multi-family development. It's located in proximity of similar uses. The parcels are located on a main thorough fare that provides transit with a route from Stateline to the South Y Transit Center. There are also bus stops nearby that can service the three parcels along with bus routes that run along Ski Run Boulevard from the Ski Run Marina to Heavenly Mountain Resort California base.

During the public outreach efforts and presentations to various boards and commissions some issues came up primarily related to scenic and fire safety. They're confident that redevelopment of the site will improve the scenic quality travel unit which is Pioneer Trail North and that any proposed development will not have an impact to any viewsheds. They did a tree survey for the height of trees on the property and the range from 15 to 122 feet. Any proposed height within the project site would be well below two thirds of the tree canopy. Any project proposed in the future would have to implement California Fire Code for defensible space. The subject parcels are surrounded by California Tahoe Conservancy lots. The CTC has indicated that they will be doing fuels management treatment of those parcels beginning this summer and will help improve the defensible space in this area.

A public information meeting was conducted in November 2019. Individuals that attended were mainly interested in the project itself and not the amendment. Prior to circulating the initial study for the California Environmental Quality Act purposes, the City did do a tribal consultation. They received one comment from the Auburn Tribe who deferred comment to the Washoe Tribe. The City staff reached out to the Washoe Tribe to get comments on the amendment but received no response. The City Planning Commission considered this item on February 20, 2020 and the City Council took action on March 10, 2020. They found the initial study neg dec to be technically adequate. They found that the Tourist Core Area Plan as amended is consistent with the City's General Plan and for the California Environmental Quality Act purposes adopted the Tourist Core Area Plan as a specific plan.

The project will require design review and approval by the City's Planning Commission and approval by TRPA because it's greater than 50,000 square feet of new floor area. Although, the City has not received a full application they've held a pre-application meeting with the Pacific Development Group and went over some of the initial conceptual ideas for the project. The City is proposing to hold a public workshop in the near future to discuss the project with the effected property owners within the vicinity.

Ms. Fink said on March 11, 2020, the Advisory Planning Commission made a motion to recommend a finding of no significant effect as well as recommend approval of amendments to the Tourist Core Area Plan. This morning the Regional Plan Implementation Committee heard the item and similarly made a motion to recommend a finding of no significant effect and motion to recommend approval of amendments to the Tourist Core Area Plan.

TRPA completed an area plan conformance checklist, findings, and a thresholds and compliance

spreadsheet based on the Initial Environmental Checklist and the application that was submitted. These were used to support the findings of conformance with the Regional Plan and consistency with the Thresholds. One item that was raised at the Regional Plan Implementation Committee meeting was to ensure that the project was consistent with the requirements of Chapter 13. It requires that if parcels are being amended into a town center they need to show that the parcels are within one quarter mile of commercial and public services that support the use of transit and must be developed parcels or surrounded on three sides by development. These parcels meet this criterion, they are directly adjacent to transit and within one quarter mile of a fire station, multiple restaurants and other services. One parcel is currently developed with two units and the second is nearly 100 percent covered with a dirt road that provides access to the adjacent parcels, and the third parcel is surrounded by those other two developed parcels as well as another developed parcel to the east.

Presentation can be viewed at:

[Agenda-Item-No.-VIII.B-TCAP-Amendment-Ski-Run_Pioneer.pdf](#)

Board Comments & Questions

Mr. Yeates said that the Regional Plan Implementation Committee unanimously recommended approval of the findings and project. There were two comments during their discussion dealing with a question of the assurance that this is going to be an affordable housing project because it's a site that's been linked to the approval of the US 50 South Shore Community Revitalization Project. That project includes the Loop Road around the backside of the casinos, the Main Street Management Plan, and the housing requirements that were all a part of that approval.

Mr. Lawrence said he's excited about the possibility of getting affordable housing at this location. It's a great location and is key to linking it to the South Shore Revitalization Project and the Main Street Management Plan. He has complete trust on the intent of the City and the applicant to make something happen here. The plan amendment while it does facilitate affordable housing, it doesn't guarantee that something else could be constructed there that's higher than affordable. He supported it moving on from the committee this morning to the Governing Board but there was discussion about tying the approval of this to a time factor. The amendment would stay in place provided that an application for the affordable housing project is received within a one year time frame.

Mr. Bruce said he appreciated the work that the applicant has done and the risk they've taken. He agreed with Mr. Lawrence that the timing issue is one that is worth discussing and considering. He said he would support the suggestion of one year.

Ms. Laine said she would like to hear from the developer to see if that's a timeline that they can meet. In addition, she would like more information on the question regarding their ability to apply for state credits and other funding sources to make this affordable housing project pencil out.

Mr. Feldman read comments from John Bacigalupi, Vice President, Pacific Development Group to answer the question raised by the Regional Plan Implementation Committee regarding availability of gap funding sources. Mr. Bacigalupi said there are several gap funding sources which may be available to the project, many of which exists at the state level. They include affordable housing sustainable communities, aka cap and trade, infill infrastructure grant program, multi-family

housing program, and home funds. Other assistance includes the Federal Home Loan Banks Affordable Housing Program (AHP) as well as the donation of land by a public agency and fee deferrals.

The Pacific Development Group is currently in a competitive application round for last home notice of funding availability issued by the State Department of Housing and Community Development for a project in another area of the state. They have real time experience with these programs. It's important to note that the regulations and guidelines governing these programs are typically revised with each funding cycle which can impact eligibility. They will diligently explore all funding possibilities as applicable keeping abreast of program changes.

To fully exploit these possibilities, the Pacific Development Group needs the help of the City of South Lake Tahoe, TRPA, and the Tahoe Transportation District well in advance in applying to these funding sources for the following critical reasons: To maximize the competitiveness of an application to any of the programs listed above, the project must be fully approved at the local level, entitlements, and environmental review. Local gap funds which help earn leverage of public funds points under these programs must be fully committed by the local agencies in advance of applying to programs for funding. Both of these conditions need to be met for any application to be competitive under these programs. The funding rounds for these programs are routinely oversubscribed in terms of the amount of funds requested so cooperation and assistance on the part of local agencies per the items above is essential.

Mr. Feldman said the Pacific Development Group is comfortable complying with the proposal of a sunset within 12 months in the event that they do not submit a full application for project approval for the affordable housing project that is anticipated.

Mr. Bruce said he's comfortable with the proposal. He said this is necessary in order to get to the Main Street Management Plan and the affordable housing component. This affordable housing project is important, and we need to do what we can to make it happen.

Mr. Lawrence said he appreciated the applicant's willingness to address the concerns. He's fine with the proposal. It's not that he has distrust with the City or the applicant but would like to have some assurances.

Ms. Laine said for the record, she vacated the mayor position for the City of South Lake Tahoe in December. She's currently an elected city council member. She thanked the Pacific Development Group because of their willingness to be open to some kind of sunset is a demonstration of their commitment that this is the project we want to see it go forward. It also demonstrates their commitment to seeing this through. Should this fall apart, they don't have the benefits of the entitlements on that land and would only hurt them. The City of South Lake Tahoe is supportive of this project and others as housing is a top priority in the City. Whether or not it has the added benefit of helping any other projects, congruently, that's even more of a bonus.

The City has this project and four to five units in the Lakeview Commons area that they currently have a memorandum of understanding out with the land trust to develop these units. There's a parcel at the Y that the City is working on with the California Tahoe Conservancy for a possible affordable housing, multi-family workforce housing project. This proposed project from Pacific Development Group is of great importance and the City will be looking at possible opportunities to

contribute some funding to this project. They are also providing other items of value but are more in kind such as sewer units that they acquired when they acquired the hotel where Whole Foods currently is. They've partnered with the South Tahoe Public Utility District who up until now didn't allow a transfer of units from one parcel to another. They've amended that and will allow the City to transfer units as long as they go to affordable housing projects.

Mr. Cashman said this project is the kind of project we envisioned when we did the Regional Plan amendment years ago and is the type of investment that we need to see in Lake Tahoe. Being affordable housing is a significant step forward for South Lake Tahoe. Ms. Aldean stated earlier this morning that this project will be even more needed based on the jobs that it will create and the people that it will serve in today's time. The time that we find ourselves in is very fluid and he's concerned that one year is possibly not enough time to give this project a chance for success. While the developer has agreed to that, he would hope that in one year from now, if we find ourselves in a situation where they haven't been able because of the financial markets, we will reconsider the one year expiration of the amendments.

Mr. Bruce said he supported reconsidering the one year time limit after reviewing what's transpired over that period of time.

Mr. Marshall said the board has that authority to do that in the future.

Ms. Aldean asked if we could amend the condition to state that at the end of the first 12 month period that the board will consider a reasonable extension due to extenuating circumstances. We could have a change in board members who are not familiar with the project and suggested that it be expressed as part of this amendment.

Mr. Bruce supported Ms. Aldean's suggestion.

Ms. Faustinos said that the California Attorney General's Office submitted good comments. She hopes that as we move forward with this project that their concerns continually be addressed, and we go into this with open eyes in terms of considering some of the items they brought up.

Public Comments & Questions

Nicole Rinke on behalf of the California Attorney General's office said their office has been heavily involved in working on VMT issues with TRPA staff and appreciate the commitment that has been made to updating the VMT threshold. They also appreciated the efforts that were made around the Events Center and the application of a net zero VMT standard for that project.

In contrast to the Events Center, this plan amendment declined to analyze the VMT generated by the project because it will generate less than 100 daily trips and therefore, pursuant to the interim VMT guidance, does not require a VMT analysis. They disagree that 100 daily trips are an appropriate screening criteria for VMT analysis, trips do not alone equal VMT. Please refer to their May 21, 2019 letter to Karen Fink, page 5, for more detail. But, particularly at this time when it has been acknowledged that the basin is over the existing VMT threshold, there is no support for using a 100 or other trip generation threshold to avoid analyzing and addressing a project's generated VMT.

Any projects/plan amendments being proposed at this time need to be analyzing VMT and complying with a net zero VMT standard in order to make the required findings for threshold compliance. Please also note that the supporting documentation for the amendment is not clear that the plan amendment will not exceed the 100 trip screening level ; Table 1 of the LSC memo (page 128 of the pdf) indicates that 17 units will generate 78 daily trips, which is the total claimed for the plan amendment as a whole. However, the plan amendment would accommodate up to 77 units (see page 136 of the pdf). Please clarify that the analysis has accounted for the full number of trips that will be associated with “build out” (aka 77 units) of the plan amendment.

Finally, while they certainly support the development of affordable housing in this area, they also note that the plan amendment is being proposed ahead of the project. Thus, there is no guarantee that the more permissive development standards that the plan amendment authorizes will in fact be utilized for affordable housing. At a minimum, the plan amendment, if approved, should be limited to the development of affordable housing.

They request that action on this item be deferred so that these issues can be adequately addressed. In addition, in the future they request that staff keep them engaged on matters that relate to VMT or raise VMT issues, as these are matters of ongoing importance to their office. Unfortunately, they were not able to engage earlier with this proposal, they are now aware that this has already been before the Regional Plan Implementation Committee and the City of South Lake Tahoe. However, with their focus on the Events Center and more recently the pandemic, they were not aware of this proposed plan amendment until now. Their preference is to engage early and productively, and they can do so more effectively when they are made aware of matters earlier in the process.

Steve Teshara on behalf of the Lake Tahoe South Shore Chamber of Commerce. The Chamber strongly supports the Governing Board's approval of the Tourist Core Area Plan boundary line adjustment as described in the staff report. They have confidence in the Pacific Development Group's commitment to submit an application and construct deed-restricted affordable housing on the parcels they have purchased within the area to be added to the Tourist Core Area Plan. Pacific Development Group has previously developed several of the most successful deed-restricted affordable housing projects within the City. Affordable housing is what this company does. We are fortunate to have an affordable housing developer of their caliber interested in developing this important project. This specific project has been identified as a priority project in the recently published South Shore Region Local Resident Housing Action Plan, a priority in the City of South Lake Tahoe's intended Housing Work Plan, as well as a major step forward in the City's ability to meet its assigned Regional Housing Needs Assessment number. Please do not delay in approving this Tourist Core Area Plan boundary line amendment.

Carl Hasty, Tahoe Transportation District said the Tahoe Transportation District is working with the City of South Lake Tahoe and Pacific Development Group on this project. The District supported the amendment and thanked the City, Pacific Development Group, and TRPA for their support.

Mr. Marshall said staff received two other comments on this agenda item from Galen Rowell and Edward Weston; two deceased photographers. The comments were pertaining to the scenic quality of the topic as well as cell towers. Staff will not be reading these comments as these are not real people.

Board Comments & Questions

Mr. Yeates said regarding the issue of vehicle miles traveled raised by the California Attorney General's Office. It's not the 77 units because the difference that we're looking at is the change by this amendment which is 17 additional units. Those 17 additional units do not get to the point where we would do a VMT calculation; the policy is 100 or fewer trips. Not only is that our position, it's pretty consistent with the Governor's position regarding trips of less than 110 don't have a significant effect on the environment. However, if someone was to put forward evidence that this particular project would have a substantial effect on the environment then we would have to adjust to that evidence. There's no evidence that's been put forward. There's a disagreement between us and the staff of the California Attorney General's Office. As we move forward in developing a VMT threshold and reworking our VMT issues, he's committed to making sure that we have far better communication between the two agencies as we move forward on this issue. The statements from Mr. Bruce and Mr. Lawrence and the applicant's decision on the timing issue to make the application for affordability addresses the other part of the California Attorney General's comments.

Ms. Laine referred to Attachment A and the effective date of this ordinance. She asked if it would be appropriate to amend the ordinance itself to have the sunset clause be a part of the effective date rather than adding it to the motion.

Mr. Marshall said he has some proposed amendments to section two that will incorporate the concept. This will be added to the second motion.

Mr. Bruce said he believes what Ms. Aldean was stating was that we "shall" review it rather than "might" be a review. He did not object to that request.

Mr. Marshall said he took the language to be permissive. "The Governing Board may consider a reasonable extension of this time limit as conditions warrant."

Ms. Aldean said that's fine with her. She's comfortable that the board members in one year from now will use their good judgement if warranted to cooperate fully with the applicant to ensure that this project is successful.

Ms. Laine asked where the language will be inserted regarding the sunset.

Mr. Marshall said it would be in section 2.0 on page 274 of the packet. The second page of the ordinance. First, there needs to be an edit the header to read "TRPA Regional Plan (Tourist Core Area Plan) and Plan Area Statement Amendments. At the end of that section which ends with "As set forth in Exhibit 1, he added "This amendment shall sunset automatically within 12 months unless a development application for an affordable housing project on the parcels incorporated into the TCAP by this amendment is submitted. The Governing Board may consider a reasonable extension of this limit if conditions warrant."

Ms. Laine made a motion to approve the required findings, including a finding of no significant effect, for adoption of draft Tourist Core Area Plan, Pioneer/Ski Run Plan Area Statement 092, and Lakeview Heights Plan Area Statement 085 Boundary Line Amendments as provided in Attachment B.

GOVERNING BOARD

April 22, 2020

Ayes: Ms. Aldean, Mr. Bruce, Mr. Cashman, Mrs. Cegavske, Ms. Faustinos, Ms. Gustafson, Ms. Laine, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Yeates

Absent: Mr. Beyer, Ms. Berkbighler

Motion carried.

Ms. Laine made a motion to adopt Ordinance 2020-___, amending Ordinance 2019-03, as previously amended, to amend the Tourist Core Area Plan, Pioneer/Ski Run Plan Area Statement 092, and Lakeview Heights Plan Area Statement 085 to include the changes referenced in Attachment A and as amended as read prior by Agency Counsel.

Ayes: Ms. Aldean, Mr. Bruce, Mr. Cashman, Mrs. Cegavske, Ms. Faustinos, Ms. Gustafson, Ms. Laine, Mr. Lawrence, Ms. Novasel, Mr. Rice, Mr. Yeates

Absent: Mr. Beyer, Ms. Berkbighler

Motion carried.

IX. REPORTS

A. Executive Director Status Report

Ms. Marchetta said April 22 marks the 50th anniversary of the first earth day celebration. TRPA is lucky to share the birthday year with its 50th anniversary. Earth day is about preserving the planet for generations to come. Right now, is a time that might lead to transformations that we may not even know what those look like. Maybe one of the silver linings to this Covid-19 crisis is creating a greater sensitivity to our environment around us and how it is that environment sustains us.

TRPA has adjusted in response to the Covid-19 closures with the closure of our office since March 16th. Staff has been working remotely since that time and has been quite successful. We are carrying forward every aspect of our operations including permits. We have a drop box at the front lobby for document drop off. Work is continuing in all divisions and in all aspects of TRPA. She thanked staff who has handled this transition remarkably well. They are a stellar group. We have been using very extensive use of telecommunications to replace in person meetings. At this morning's Operations and Governance Committee they discussed looking ahead at the budgets. As an outgrowth of this pandemic, TRPA has already started to receive the first requests for belt tightening. The Nevada Budget Office requested TRPA submit a cut for the remainder of this fiscal year of \$76,000 and then asked for two budget scenarios for next year with four percent plus another four percent with totals a 10 to 14 percent cut from Nevada. Those scenarios were submitted last week. We have not heard from California but are expecting additional pressures there. We are anticipating and building our budgets around expected cuts.

The Governing Board retreat was originally scheduled for April and then moved to May. In consultation with the Chair and Vice Chair, we have developed a plan B that is in lieu of our annual day long offsite Governing Board retreat. Instead of planning two day virtual meeting in May, it will be a one day meeting on Wednesday. In lieu of the retreat, staff will be presenting to the board the Fiscal year 2021 work program at next month's meeting. The board will have an opportunity to review and provide guidance on the work program. Staff will use that work program to build the final budget which will go to the board in June.

Lastly, Mr. Yeates asked for an update on the Tahoe Keys Aquatic Weeds Management Project and whether or not this Covid-19 crisis had an effect on that project schedule. We are still on schedule and are retooling for virtual stakeholder and public outreach to manage that project. We are still anticipating a release of the Draft Environmental Impact Statement this summer and there'll be future meetings on this topic.

1) Quarterly Report: January – March 2020

No further report.

B. General Counsel Status Report

Mr. Marshall said yesterday the mandates were issued in the Garmong versus TRPA case in a challenge to a cell phone tower. It was a tower that was approved by TRPA outside of Skyland, Nevada on Forest Service land. The Ninth Circuit Court of Appeals found that the individual did have standing to bring his challenge. So that's be remanded back to the District Court in Reno, Nevada. They anticipate that briefing on not only the remaining defenses that TRPA has asserted particularly for the individually named Governing Board, staff, and Hearings Officer individuals. We'll make those defenses in a renewed motion to dismiss if the complaint is amended. Otherwise, we'll proceed to the merits of the underlying permitting decision.

X. GOVERNING BOARD MEMBER REPORTS

Mr. Yeates said he's concerned about the upcoming Memorial Day weekend and the recreation potential at Lake Tahoe. He asked if we're looking into the situation and what's the strategy between the two states and coordination with the local sheriff's department.

Ms. Novasel said this was discussed this week at their El Dorado County Board of Supervisors meeting. There's an ordinance which in part has been approved that will fine visitors \$1,000 per day if they are staying in a vacation rental. They don't have any hotels in the Tahoe Basin in the unincorporated area other than Camp Richardson which is shut down. They have an emergency office which has coordinated between most of the areas and agencies in El Dorado County including Barton Hospital, fire protection, and health providers. This is being ran by their Public Health Office, Dr. Nancy Williams. They're looking at phasing in the reopening but don't have a timeline on that right now. A lot of this will coordinated with the Governor's order. The El Dorado County Sheriff's has said that they will not cite second homeowners for using their own homes. They feel it's a violation of their private property rights. She feels that we have the ability to cite second homeowners if they are truly vacationing. This vacation rental enforcement is a civil enforcement that they put forth so they could around that and be able to fine vacation home renters who are coming here on vacation. They've been in daily contact with Barton Hospital and at the beginning they had 19 beds and if there's a surge, they temporarily have up to 139 beds. The City of South Lake Tahoe Recreation Center has temporarily opened up as a homeless shelter. They've had up to nine positive Covid-19 cases in the Tahoe Basin portion of El Dorado County.

Mrs. Cegavske said in Las Vegas they're having issues that are a little different. One of the biggest issues is they are still letting party houses (vacation rentals) have multiple people in them causing problems in neighborhoods and are not adhering to any of the restrictions such as masks and social distancing. They don't have people to go out and investigate these issues. She would like to

discuss with Ms. Novasel how they are addressing some of these issues.

Ms. Novasel said in El Dorado County they turn the complaints into the Code Enforcement personnel. The code enforcement contacts the property owners to let them know that there's a violation and sends out the \$1,000 per day fine. This is new and is still unclear how this is going to work administratively. The City of South Lake Tahoe has been doing the same process. In particular it's the vacation rentals that are so egregious that they're working to take care of them being that their Sheriff won't take care of it in an enforcement manner.

Mr. Rice said since the Nevada Governor has declared vacation rentals an essential business, there's not a lot they can do about this. Their District Attorney concurred that as long as they're deemed essential businesses, there's not much they can do.

Ms. Laine said at this time, the City of South Lake Tahoe and El Dorado County have been issuing administrative fines of \$1,000 per day for about three weeks. To date, they've only issued three citations. Their police department is a big part of the enforcement team along with the code enforcement officers. They receive a report from the police department daily and are proactively enforcing the shelter in place order. They also accept calls through their dispatch from concerned citizens as previously vacated homes are suddenly being populated. The position that the City has taken with regards to the property rights issue is to remove the property rights issue from the center of the table and rather look at it like this. The Governor issued a shelter in place order on March 20th. If you leave your home in "x" jurisdiction and you drive to Lake Tahoe, you are in violation of the shelter in place order regardless of whether they own the property or not. They don't care whether it's a vacation rental or second home, there is a shelter in place order and driving from one place to another is a violation of the order. It's disappointing when the law enforcement are not getting behind the citizens in trying to keep our area safe. The City developed a short term economic recovery task force along with a long term economic recovery task force. With regards to the short term goals, they have a committee that's working on what is their branding going to look like, who do they want to be when they do open, and how is hygiene a part of that. They just don't want to get open but want to stay open. They want to have a phased in process that's thoughtful and works. They know that they'll be dealing with a drive up market and estimate that to be about a 750 mile radius around Lake Tahoe. It's going to be sometime before that airline market comes back.

Ms. Novasel said Sheriff D'Agostini is aware of her opinion that it's the right of the county to shut down any second home. He had a dispute with county council on that. Their order is that all vacationing or temporary travel is a violation of the Governor's order. With that being said, she could not get a majority vote of her Board of Supervisors to allow that. So, it's vacation rentals only right now but has in the ordinance the ability to move to that second phase which would be to require that from second homeowners. However, they don't have the support of the Sheriff. They're trying to make it a civil administrative penalty rather than a criminal penalty because they don't have the backing to allow that enforcement.

Mr. Lawrence said even before the Nevada Governor put restrictions in place, they did close down camping at all of their state parks but kept the parks open for day use excluding visitors' centers and things like that. They've been monitoring them on a daily basis. Since they closed the campgrounds and kept day use open, they've had to close down all of the state parks even for day use in Clark County because social distancing wasn't being followed. They've been monitoring

Sand Harbor and the East Shore Trail in particular to see what they might do there. They get a lot of comments that people want to keep that open and also get concerned calls from about people using the trail and possibly being infected. They constantly monitor it and coordinate with the Tahoe Fund and the Take Care program to put social distancing signs on the East Shore Trail and Sand Harbor. If the social distancing doesn't occur, then they'll have to close it down as they've done with other parks. They've been discussing with California about consistency. Even outside of Covid-19, outdoor recreation is always a challenge because you don't want any one area to be overcrowded for environmental reasons. If we're not consistent and there's four out of five parks, whether it's local, federal, or state close and one park open, everyone is going to visit that one park. Discussions have been held with his California counterpart, TRPA, and State Parks staff to see if they can do something that's a consistent type of resource recreation management moving forward. They'll need to get the message out to people in advance if they do need to change direction with their land management. The situation is fluid and is difficult to make any decision or determination on what's going to happen any given day without them doing the monitoring.

Mr. Rice said since the last Governing Board meeting, Douglas County approved the Tahoe South Event Center project.

Ms. Aldean asked what the implication will be for the ballot question for the redevelopment area since the project has already been approved.

Mr. Rice said at this point they hope it will be mute.

Ms. Aldean asked if they've received a legal opinion on that.

Mr. Rice said per the County Manager, the way the ordinance was written when they presented it to the approvers, it's advisory as far as their concerned.

XI. COMMITTEE REPORTS

A. Main Street Management Plan and other components of the US 50 South Shore Community Revitalization Project

No further report.

B. Local Government & Housing Committee

No report.

C. Legal Committee

No report.

D. Operations & Governance Committee

No further report.

E. Environmental Improvement, Transportation, & Public Outreach Committee

No report.

F. Forest Health and Wildfire Committee

Mr. Hicks said there may be a committee meeting in May to review possible code amendments to Section 61.3, vegetation protection and management.

G. Regional Plan Implementation Committee

Mr. Yeates said the committee met and discussed VMT and the air quality mitigation fee as part of the workplan.

XII. PUBLIC INTEREST COMMENTS

Elizabeth Noah said she's a year-round resident of North Lake Tahoe. She would like TRPA to address the closure to boats until further notice. Did you receive a mandate from Nevada or California governing bodies to make this decision? Did you make this decision internally, within TRPA? What studies or science are you relying upon to substantiate your decision to prohibit boating? Do you believe that if your decision to prohibit boating is defensible if litigated?

Ellie Waller, Douglas County resident said some language from previous a staff report in this packet, only 2 pages. Staff, applicant, and stakeholders worked to ensure that the transit package is effective and works to change people's behavior and will get people them out of their cars. The group designed mandatory conditions of the permit that will deliver effective transit and traffic mitigation for the traffic effects of this project; new, free, and frequent on demand, and flexible transit services and parking management measures. What in the way of funding is being requested of Douglas County ? Staff should provide any future expected funding requirements to the Douglas County Commissioners (BOCC) for consideration at future meetings so the public can weigh-in and not assume funds will necessarily be granted. Grant dollars may cover some of the expenses for new or additional vehicles but what about the high potential for infrastructure upgrades due to public utility line relocations?

In Mr. Nielsen's presentation, Transportation impacts were the primary topic of conversation with this project. The environmental assessment identified impacts to transportation as potentially significant. The primary impact is operation of the event center will result in a significant increase in vehicle miles traveled.

Who will monitor and fund VMT counts to ensure no net increases occur? How often will traffic counts be completed? The Tahoe Douglas Visitor's Authority should foot that bill, it's their Event Center. How will the proposed year-round free transit be funded? There are only so many grant dollars to go around. If Douglas County is in the assumption pool of potential funders, then the Douglas County Board of Commissioners should discuss at an upcoming public hearing. One of the questions discussed amongst the stakeholders was what would happen if the monitoring showed that the performance measures were not being met. Stakeholders collaborated to develop an adaptive management plan.

How often will measurements be reviewed to ensure VMT exceedance issues are kept in check? Who will fund the monitoring? Should be the Tahoe Douglas Visitor's Authority footing that bill.

The purpose of the stakeholder coordination is to identify and to better understand the factors including those not specifically associated with event center operations that may be affecting traffic and how they need to respond to monitoring and determine the next steps. The stakeholder committee will include but is not limited to an event center representative, a state representative from each state, and representative from Douglas County, the City of South Lake Tahoe, TRPA, public safety, and the Tahoe Transportation District.

When will this stakeholder group be convened? The Douglas County Board of County Commissioners should be selecting the Douglas County representatives at an upcoming BOCC meeting, so the public is aware of who is representing them. They should also be allowed to weigh-in on representation. The entire County, not just the lake will possibly be asked to fund some of the Mainstreet Management Plan goodies, infrastructure updates, etc.

Henrey Patrick said the TRPA should not be holding public hearings while the "freedom to assemble" is unconstitutionally suspended. Even martial law protects against undemocratic long term changes to governmental functions. There are a lot of individuals that rely on public sources of internet access (libraries, coffee shops, public areas), who cannot attend these webinars. Worse, because the libraries are closed (even law libraries), the public cannot consult the valuable references for constructive thought about agenda items. The lack of public assembly has real chilling effects on public debate. The economy is suspended by stay at home orders (large gathering venues are forecast to be prohibited reopening until a vaccine is developed, manufactured, and delivered to all 350 million US residents approximately in four years), and the country will certainly be dramatically transformed by the time it exits this crises, it is inappropriate to "railroad" a potentially obsolete vision under the darkness of the pandemic. These projects will not be able to generate revenue to pay for themselves for half a decade. This all should wait.

Frank Sinatra said he's a real and alive musician who has a home in the Basin. His parents, who are also musicians, gave me the first and middle names "Frank" and "Sinatra." He's honored to go by the alias "Frank Sinatra." Hence, he finds its particular offense in the pretext you are using to censor other peoples' public comment. Are we to believe that because John Marshall is irrefutably the diseased fourth Chief Justice of the United States Supreme Court, he cannot also be a real person? Cease and desist in finding creative pretexts to illegally censor public comment.

Tahoe Residents for Actual Prosperity said the simple high school physics assumption that radiation can only cause cancer by being of a high enough photon energy (UV/X-ray) to dislodge electrons and break chemical bonds is wrong. A preponderance of scientific evidence clearly indicates that radio frequency (RF) radiation causes reactive oxidative species (ROS) in living cells and free radical production. Microwave radiation alters the antioxidant repair mechanism resulting in a buildup of reactive oxidative stress. Free radical DNA damage results, as well as reproductive harm and some electro-hypersensitivity effects. Laboratory toxicology experiments show DNA damage directly resulting from microwave RF exposure, and epidemiology has found cancer rates near cell towers are upwards of three to four times higher than background rates; this aggregate rate approximates the vehicular fatality rate in the US! Despite long emerged science, the captured FCC continues to apply an outdated standard it imported from the "National Council on Radiation Protection" in 1996 before cell phones were widely adopted or any direct science existed to expose actual health effects. The FCC exposure standards are now 10,000 times higher than the 0.1 $\mu\text{W}/\text{cm}^2$ recommended by current science. Cell towers should not be located less than 1,500 feet (~500 m) from the public or sensitive wildlife. Telecommunications are a

trillion-dollar industry, and their corporate lobbying has been tremendous. The TRPA is not prohibited from regulating RF emissions limits as it is neither a state nor local agency (*Lake County Estates, Inc. v. Tahoe Reg. Planning Agency*, 440 US 391, 401, (1972)).

Concerned Citizens of the Tahoe Basin Regarding Cell Tower Moratorium said we need a moratorium on cell tower installations until the TRPA develops its own threshold findings specific to the sensitive Lake Tahoe alpine environment.

Arbitrary cell tower installations add uncertainty to real estate values, cost homeowner equity, unexpectedly ruin a family's nest egg, and generate large health expenses that we all pay for one way or another. A single cancer treatment regimen costs between \$100,000 and \$1 million and human life, itself, is invaluable. Even small risks which result in grave consequences must be taken very seriously. Because of the large numbers of residents exposed to this risk, the cost of doing nothing would result in an increasing number of people, many of them young, developing cancer and suffering other health effects; this extends to wildlife too. We have long proudly held a constitutional liberty in this country to personally make informed choices over the risks we exclusively take against our own health and bodily integrity. Regarding cancer, these ethos appear in California law through Proposition 65. Cell tower radiation is far worse than purchasing a cup of coffee, processed meat, BPA plastics, and MTBE gasoline. Such purchases are all informed choices. Unlike the latter, cell towers incessantly and non-consensually intrude radiation into our bodies with harmful cumulative exposure. Moreover, carcinogenic risk is not simply additive; there are synergistic effects because when cellular repair is consumed by one genotoxin, DNA is far less protected against additional mutagenic threats such as radon gas, UV light, or "recreational splurges." Callous infliction of bodily harm and disregard for home equity is un-American. We can do better.

Gaylord Nelson said the TRPA needs to implement a moratorium on wireless telecommunications facilities (WTF's) deployments, until it is able to assess the serious degree that such installations are undermining its own climate change policies.

Cellular broadband is one of the most energy inefficient means of information transmission imaginable. Energy is radiated in a wide range of directions such as to send an adequate signal to just a single point. The energy effectively lost through the air is tremendous. Furthermore, these towers and phones constantly "ping" the each other with idle chatter just to be able to connect a call.

The greenhouse gas emissions associated with continuously running a macro cell tower transmitter with 47,090 watts of effective radiative power (or 187.2 kilowatt-hours per day) is a sizeable fraction per day of the power a household will use in an entire month! The agency policy is to reduce net power consumption, and there needs to be analysis on the impact against the agencies energy consumption goal and policy.

The new 5G frequencies increase the data capacity because the signals travel a much shorter range and thus limit inter-tower interference. However, the very reason this frequency band's range is limited is because the energy is lost heating up the air! We just phased out incandescent lightbulbs because of thermal and electrical waste, and now we are asked to adopt kilowatt microwave transmitters! This is all being done to make some greedy corporate giants milking a bad technology even wealthier, at the complete loss of the environment. 5G transmitters create thermal islands around each site, which also have an obvious potential for environmental harm.

When you compare cellular to fiber optics, the waste is dramatic: a milliwatt laser diode can continuously send broadband signals tens of miles through a single fiber optic strand, whereas it would take a 50,000 watt transmitter to send this same signal to the same point through the air. The disadvantage of fiber optic terminals being spatially fixed is not an issue for home broadband, because houses do not get up and move around. Setting-up a cellular infrastructure to provide home broadband is horrible public policy. The obvious answer is fiber-to-the-home; and compact home Wi-Fi networks are always an option for those who must have Wi-Fi calling available to their "smart" phone.

Such extremely wasteful uses of energy are responsible for global warming. This is resulting in one of the larger mass-extinction events in geologic history. In this context, the policy choice is easy. Do not permit this waste! TRPA needs a moratorium on Cell Towers while it assesses the impacts.

Ira Einhorn said concerns raised by local special interest groups that we "will all die" in a freak inferno unless there is a rapid deployment in cell towers (Wireless Telecommunicating Facilities/WTF's) are unfounded conjecture and baseless speculation. There is no hard evidence whatsoever supporting the certain likelihood of a historically extremely rare scenario; or such event resulting in a mass-casualty. The canyon gorge topography, vegetation, and associated "Venturi Effect" fire weather in Paradise, CA is actually quite different than that surrounding our alpine lakeside cities. Many people died in the "Camp Fire" because the roadways did not have the capacity to evacuate trapped people. Cellphones have actually created stampedes in a wide variety of emergencies.

Groups exploiting this tragedy, such as the Tahoe Prosperity Center, ought to be ashamed! I have heard firsthand knowledge that close relatives of victims of this tragedy are generally angry how their loss has been used statewide to sell all sorts of things, including political decisions that the victims certainly would not have supported if they were alive.

Cell towers are neither the only way or the best way to provide network connectivity to residents. Cell towers transfer real costs to the environment. Science proves that cell towers damage trees at the cellular level, triggering stress responses. Conifers secrete extremely flammable terpenes, possibly to ward off typical beetle infestations in response from stress caused at the cellular level. In this case because of RF radiation. This actually raises fire danger.

Furthermore, the pulsed microwave radiation used by 4G/5G cell towers is known to cause extremely adverse neuropsychiatric effects including depression and several well documented suicides. It is just as likely or perhaps unfounded as a mass-casualty conflagration that these towers could be the proximate cause of a mass-shooting: known RF-induced depression such as in that in future teenager could cause him or her to act out in violence at school or a public event. We need a moratorium on cell towers and decisions based on current science, not speculation off freak disasters.

Tomasz said there are currently some vocal special interest groups pressuring TRPA to streamline cell tower approval. They myopically claim that rapid cell tower deployments are necessary under the banner of "prosperity." They ignorantly and incorrectly profess to the public that there is no evidence that cell towers have any adverse effect on environmental quality. Despite being presented with thousands of pages of science, they dishonestly continue with the exact same narrative.

April 22, 2020

Congress created the Tahoe Regional Planning Agency in order to protect a threatened "National Treasure." The basin was being assaulted by short-term economic interests that ultimately endangered its long-term future. These included a hideous Emerald Bay bridge, beach high-rises, alpine wetlands development, and other development attempts that would strip away the very character that makes Tahoe a treasure. The current cell tower deployments are a new chapter in this very tired story. They threaten to strip away the scenic and wild character of the basin. Radiofrequency radiation kills-off pollinating insects, which in turn lowers the yield of alpine berries and seeds, which then diminishes the renewable food supply, and hence the populations of birds and mammals. The low-intensity radiofrequency radiation also stresses migratory birds. Furthermore, hundreds of thousands of tourists are drawn to the Tahoe basin to see its unique wildlife populations, and urbanization would significantly diminish this appeal, causing economic harm. Cell towers also diminish real estate values. Because the continued installation of cell towers is a threat to the long-term prosperity of the basin, I plead that you implement a moratorium on cell towers until the long-term impacts are understood.

Monica Eisenstecken said she's extremely concerned about the rapid increase in the number of cellular facilities at Lake Tahoe. These are dangerous to Tahoe's sensitive environment. Trees, wildlife, birds, insects, plants, and more are all negatively impacted. Your Board has never even required study of this issue. TRPA's mission is to protect the environment. While this threat to the environment did not exist when your first Regional Plan was adopted, it is now a severe threat which will only get dramatically worse with the rapid roll out of new 5G infrastructure. We need a moratorium on new cellular facilities now so that TRPA can create appropriate standards for the protection of Tahoe's sensitive environment. There is ample evidence that increased levels of EMF's are a hazard. Please, take action on this immediately before more damage is done!

XIII. ADJOURNMENT

Chair Mr. Yeates adjourned the meeting at 3:19 p.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Marja Ambler". The ink is dark and the signature is fluid.

Marja Ambler
Clerk to the Board

The above meeting was taped in its entirety. Anyone wishing to listen to the tapes of the above mentioned meeting may call for an appointment at (775) 588-4547. In addition, written documents submitted at the meeting are available for review

EXHIBIT (B)(d)(ii) Fig. Rob Perez

South Lake Tahoe City Council and Mayor
1901 Lisa Maloff Way
South Lake Tahoe, CA 96150

Re: Address: 1360 Ski Run Boulevard
File No.: 19-026

Special Use Permit for New 112' Verizon Wireless Tower and Associated Equipment Hearing
Date: Tuesday, August 6, 2019
Appellant: Monica Eisenstecken

Dear Mayor and City Council Members:

I was retained by Appellant Monica Eisenstecken to investigate certain geographic and design-related aspects of the Planning Commission's approval of the above-described project. I am a California licensed attorney and real estate broker with extensive background in advising cell tower companies, jurisdictions, and property owners in the selection of properties and designs to best fit a particular geographic area in need of one or more cell antennae facilities.¹ Please consider my opinion that the particular location and design for this facility, namely a 112' proposed monopine at 1360 Ski Run Boulevard, may not represent the best design and location due to the proximity of residences and potential visibility of the monopine facility, and indeed seems to represent a short-cut which places the facility unnecessarily close to residential properties rather than more appropriate commercial properties. My thoughts are as follows:

1. The proposed 112' tower would be highly visible at 1360 Ski Run Boulevard. The photosimulations provided by Verizon Wireless appear to be inaccurate or misleading, as they show surrounding trees to be at or near the height of the proposed tower, but the Verizon survey itself lists surrounding trees at 64.3' in height.² If Verizon's survey is to be believed, this means the proposed tower after construction would be fully 47.7' taller than the surrounding live trees. Using known structure heights as a comparison, for example the existing buildings adjacent to the proposed tower in Viewpoints 2 and 3, the proposed monopine appears to be incorrectly simulated at much lower than 112' tall. A monopine built at 112' would thus tower over surrounding trees and would be visible for a significant distance and from numerous locations around South Lake Tahoe, including from the ski runs and hillsides overlooking the area. Without the benefit of surrounding trees of similar height, monopines can be very visible, even to casual observers.

2. There are many viable options to place the tower within Verizon's presumed Radio Frequency search area, but further away from residential buildings/properties and not as visible from surrounding areas and ski runs. Verizon's site acquisition team is typically able to select any parcel of land within the Verizon search area for placement of a cell tower facility, as long

¹ About me- <http://www.celltowerleaseattorney.com/about-cell-site-attorney/>

² See Verizon Drawings dated 06/26/19, page C-1, "Site Survey", approximate center of drawing, and Photosimulations, Attachment 7 to SLT Report to Planning Commission dated June 13, 2019.

as that parcel 1) can meet the RF objective; 2) can be leased³, 3) can obtain zoning approval through the local jurisdiction; and 4) can be built within budget. In my opinion, there are a number of properties that meet these criteria but were not further explored by the Verizon consultant. Some of these potentially viable properties are listed on attached Exhibit 1,

3. Although transmission and receiving facilities are allowed with the approval of a special use permit in the Lakeview Heights Plan Area Statement (PAS) 085, this does not mean that Planning Commission and/or City Council must allow the use in the proposed location. Indeed, jurisdictions typically explore alternative locations in detail and can guide a carrier to certain locations which may be preferable from an aesthetic standpoint. Further to this objective of finding the best possible location for a wireless facility, I would ask that City of South Lake Tahoe planning staff and City Council encourage and insist on their own active participation in the site selection process.

4. The applicant's Radio Frequency (RF) existing and proposed cellular coverage maps⁴ do not provide a complete picture of Verizon's existing RF coverage, capacity or capability. Verizon's coverage maps show the presence of two (2) existing Verizon Wireless antenna facilities while there appear to be at least five (5) wireless facilities owned and operated by Verizon Wireless currently installed in the vicinity of Verizon's presumed search area (see attached Exhibit 2). Each existing Verizon Wireless facility could theoretically have antennas added or turned so that the coverage gap could be filled using existing antenna facilities rather than adding a new macro facility.

5. Verizon has not shown a need for both the macro and small cells. Verizon's small cells and the full-size macro sites are in fact both 4G enabled and will later migrate to 5G technology. City of South Lake Tahoe previously approved the installation of 23 Verizon small cells. Verizon Wireless should be tasked to explain why they need both the small cells throughout the city as well as the macro facility at 1360 Ski Run Boulevard. As stated by Nicola Palmer, Verizon's SVP and chief network officer for its wireless network, "The best way to serve an almost insatiable demand from our customers is to not build 200-foot macro [cell towers]," says Palmer. "It's to go low and tight, serving the demand as close to where it originates as possible. And that's how we've been building these networks."⁵

What we're left with then is a proposed wireless facility in a beautifully tree-lined residential area, where it will be visible and have little to disguise its true function, with possible alternative locations where it may better blend with similarly industrial/commercial uses, streetlights, street

³ Property is suitable for leasing to a cell carrier when there is available space, in this case 24' x 26' area (624 square feet) as proposed at 1360 Ski Run Boulevard, and when the property owner is at least initially interested in leasing the space to the carrier.

⁴ See Attachment 5 to the SLT Report to Planning Commission dated June 13, 2019.

⁵<https://www.fiercewireless.com/wireless/verizon-around-62-all-wireless-deployments-2017-were-small-cells> and <https://www.verizon.com/about/our-company/5g/what-small-cell-technology>

signs, commercial signage, taller commercial buildings, and sufficient height/number of trees to better hide the monopine.

Monica and her family and neighbors are asking you to give more thorough consideration to the placement of this cell tower before making a decision which can impact all residents, visitors, business owners and anyone else with an interest in maintaining SLT's natural beauty and vistas.

Exhibit 1- Viable Alternate Sites for new Wireless Facility

1. Fire Station #1. 1252 Ski Run Blvd, South Lake Tahoe, CA 96150
2. Laundromat 3668 Lake Tahoe Blvd I, South Lake Tahoe, CA 96150
3. Panda Express 3640a Lake Tahoe Blvd, South Lake Tahoe, CA 96150
4. Bonanza Produce 3717 Osgood Ave, South Lake Tahoe, CA 96150
5. Iglesia Ni Cristo church 3838 Lake Tahoe Blvd, South Lake Tahoe, CA 96150
6. Empty lot adjacent to Taco Taqueria 3920 Lake Tahoe Blvd, South Lake Tahoe, CA 96150
7. Raley's parking lot 4000 Lake Tahoe Blvd #6, South Lake Tahoe, CA 96150
8. Public Parking 1 Bellamy Ct, South Lake Tahoe, CA 96150, Proposed stealth clock tower.
9. Seventh Day Adventist 3609 Vanda Lee Way, South Lake Tahoe, CA 96150, proposed steeple or clock tower.
10. Lake Tahoe Christian Fellowship 3580 Blackwood Rd, South Lake Tahoe, CA 96150, Proposed steeple
11. Church of Christ 3609 Vanda Lee Way, South Lake Tahoe, CA 96150, Proposed steeple
12. First Baptist Church 1053 Wildwood Ave, South Lake Tahoe, CA 96150, Proposed steeple
13. USDA Forest Service Land, many locations in SLT
14. Temple Bat Yam 3260 Pioneer Trail, South Lake Tahoe, CA 9615

Exhibit 2- Existing Verizon Wireless Facilities Potentially Capable of Servicing Coverage Gap
This list is based on available data but may be inaccurate since antenna directional placement information is proprietary to Verizon Wireless.

Existing Possible Verizon site: South Tahoe Public Utility District 1275 Meadow Crest Dr, South Lake Tahoe, CA 96150 1.42 mi to 1360 Ski Run Blvd

Existing Possible Verizon site: VERIZON LTE = Harrah's Lake Tahoe, Lincoln Highway, Stateline, Douglas County, California, NV 89449, USA, possible rooftop installation

Existing possible Verizon site at Harveys Lake Tahoe, Stateline Avenue, South Lake Tahoe, El Dorado County, California, NV 89449, USA

Existing Verizon site at Angel's Roost 1.22 mi from 1360 Ski Run Blvd

Existing Verizon site at El Dorado County Sherriff's Office 1360 Johnson Blvd #100, South Lake Tahoe, CA 96150

Existing Unknown/TBD carrier at South Tahoe Middle School 2940 Lake Tahoe Blvd, South Lake Tahoe, CA 96150

EXHIBIT (B)(d)(iii) Fig. Rollston, Henderson, & Johnson, LTD

ROLLSTON, HENDERSON & JOHNSON, LTD

ATTORNEYS

LICENSED IN NEVADA AND CALIFORNIA

Of Counsel

MICHAEL P. HAMBSCH

KENNETH C. ROLLSTON (1944-2017)

ROBERT M. HENDERSON

MICHAEL K. JOHNSON

July 30, 2019

South Lake Tahoe City Council and Mayor
1901 Lisa Maloff Way
South Lake Tahoe, CA 96150

Re: Address: 1360 Ski Run Boulevard
File No.: 19-026
Special Use Permit for New 112' Verizon Wireless Tower and Associated
Equipment
Hearing Date: Tuesday, August 6, 2019
Appellant: Monica Eisenstecken

Dear Mayor and City Council Members:

Please be advised the undersigned represents Monica Eisenstecken with regard to her appeal to the City Council of the Planning Commission's approval of the above-described project. Ms. Eisenstecken is a full-time resident (with her two young children) and owner of the adjacent property (3605 Needle Peak Road) which would be dramatically, if not catastrophically affected by this project. Please consider the following as reasons for denying the requested Special Use Permit.

1. Ms. Eichenstecken Was Unaware Of The Application Until after The Planning Commission Meeting Was Held.

Ms. Eisenstecken's property is adjacent to the property for which a permit is sought, and indeed well within a three hundred foot (300') radius of the location for the proposed equipment. In fact, the property where she and her elementary school age children live is approximately 130' feet from the base of the proposed tower.

Notwithstanding the fact she owns and lives in the neighboring property, she never received notice of Verizon's application and/or its placement on the Planning Commission's agenda until several days after the Planning Commission's June 13, 2019 meeting during which it approved the project¹. I raise this issue not to claim that a notice of the hearing was not properly mailed to Ms.

¹ She only learned about the hearing because she received a letter from TRPA dated June 4, which told her to expect another letter with further details. When approximately 2 weeks passed without receiving further correspondence, she made inquiry of the city and learned the

Eisenstecken, although she did not receive it for whatever reason. Instead, and more substantively, I raise this issue to point out that the Planning Commission was not given the benefit of Ms. Eisenstecken's opposition, or any of the information set forth in this letter or which may be subsequently provided at public hearing on August 6, 2019. I further suspect that Ms. Eisenstecken is not alone in failing to receive actual notice of the Planning Commission hearing, notwithstanding a vehement opposition to the project, as will no doubt be evidenced at the August 6, 2019 hearing before you. Had the Planning Commission been aware of this information, I have every confidence it would have rejected the application, as I trust you will.

2. Verizon May Avail Itself Of Several Other Preferable Locations For This Tower Which Are Not Immediately Adjacent To Someone's House And/Or Are Not Within An Area Zoned For Residential Use And/Or Do Not Require Construction Of A New Tower But Instead Can Share An Existing One. – Therefore, It Is Not "Necessary And Desirable" On This Parcel.

In order to approve this permit, this City Council needs to find that the application meets each of the four (4) tests set forth in City Code 6.55.620. The first required finding is that the project requiring a Special Use Permit is "**necessary or desirable on a specific parcel**". In support of Verizon's contention that erecting a one hundred twelve foot (112') tower at 1360 Ski Run is necessary or desirable at this particular location, Verizon first claims:

*"A number of nearby parcels to the subject parcel were considered for a wireless facility and ruled out for various reasons."*²

Verizon fails to identify a single parcel they considered for this tower, let alone "[a] number of nearby parcels", nor does Verizon identify a single reason why such alternative sites were "ruled out" let alone its "various reasons".

Apparently Verizon expects these contentions to be accepted at face value without any specificity, rationale, or support whatsoever. This lack of detail alone necessarily constitutes a valid reason for concluding that finding number 1 cannot be satisfied.

While Verizon apparently could not be bothered to set forth the other parcels it considered and ruled out for this facility, Robert Perez, a cell tower leasing expert unaffiliated with the applicant has identified at least 14 other preferable parcels where this tower could be located. See correspondence from Mr. Perez, filed simultaneously herewith. Such establishes that it is not

Planning Commission meeting had already occurred.

² See Attachment 3 to City of South Lake Tahoe Report to Planning Commission labeled as Item 1 on Page 9 of the report itself.

“necessary” to build the tower at this “specific parcel”, 1360 Ski Run Boulevard, nor is it “desirable” to erect a tower in a residential neighborhood in close proximity to Ms. Eisenstecken and her other neighbors.

This City Council is required to make findings for a Special Use Permit for this tower in the same manner it might for a wide variety of projects. In other words, the City of South Lake Tahoe has not adopted specific ordinances pertaining exclusively to cell tower applications, nor should it necessarily do so. However, it is instructive and illustrative to look at a specific cell tower ordinance recently adopted by a nearby, similar municipality: the Town of Truckee. Truckee recognizes that equipment on existing structures (e.g., church steeple, communication towers, free-standing sign, water tank, etc.) are preferable to a location where a new structure has to be specially built. See Truckee Municipal Code, §18.58(A) (3) (a) attached hereto as **Exhibit A**. In Truckee, applicants are “required to provide written documentation demonstrating a good faith effort in locating facilities per that site selection order of preference”,³ something that Verizon has altogether declined to do.

Again, Truckee’s tower – specific code provision is instructive and helpful as a guide. Only where an existing structure is unavailable might an applicant turn to erecting a new structure, and even then priority is for locations where the greatest amount of screening exists, and never in a residential neighborhood.⁴

3. The Applicant Has Not Demonstrated That The One Hundred Twelve Foot (112') Tower Is “Not Injurious To The Neighborhood”.

“**Not injurious to the neighborhood**” is another finding the City Council will be unable to make, for the following reasons:

A. Applicant Proposes This Tower In A Residential Neighborhood Next To A House, Which Is Necessarily Injurious.

The subject parcel is within Plan Area Statement 085, which is classified as residential. The Planning Statement says that “[t]his area should continue as residential area, maintaining the existing character of the neighborhood”.

Verizon first contends that the tower will not be injurious to the neighborhood because:

³ The Ordinance itself appears to contain a minor error inasmuch as it references a non-existent section (2.a) of the obviously intended section which labeled “Site selection.”

⁴ Truckee Municipal Code: 18.58 (3) (b) (c); 18.58 (A)(4) “Co-Location.” (i.e., two (2) or more users locate their equipment on the same tower) is encouraged. 18.58 (A)(5).

“[d]ue to the placement and stealth design of the tower within an existing group of trees, any visual blight to the neighborhood will be substantially reduced”.⁵

Verizon fails to explain how a tower which is one hundred twelve feet (112') tall can appear stealthy amongst adjacent trees which top out at no more than seventy feet (70'). The only tree depicted on Verizon's site survey⁶ is 64.3', which it admits is of “typ[ical]” height. This stands in contrast to Verizon's “PHOTOSIMULATIONS” Attachment 7, (pages 42-44) which fail to realistically depict a tower which towers more than 40' over surrounding trees.

In evaluating cellular facilities, the local entity may consider “other valid public goals such as safety and aesthetics”. *T-Mobile USA, Inc. v City of Anacortes*, 573 F.3d 7 (9th Cir. 2009); *Cellular Telco v Town of Oyster Bay*, 166 F.3d 490, 494 (2nd Cir. 1989) (Esthetic concerns can be a valid basis for zoning decisions).

Again, the Town of Truckee necessarily determined that cell towers are injurious to residential neighborhoods and outlawed them accordingly in such locations. South Lake Tahoe can and should consider the same logic.

Applicant further provides that “*the neighborhood will also benefit from . . . improved access to emergency services, who for the most part use Verizon to track and dispatch their assets*”.⁷ Even if this statement were true, and access to emergency services increased, this says nothing about how the tower is “not injurious to the neighborhood”. In any event, this contention is believed to be factually inaccurate, as the undersigned is unaware of any agency providing emergency service using Verizon “for the most part” to “track and dispatch their assets”.

TRPA code requires additional findings for any structure (excluding buildings) having a maximum height greater than twenty-six feet (26')⁸. Specifically, additional two findings are that 1) the function of the structure requires a greater maximum height than otherwise provided for and 2) the additional building height is the minimum necessary to feasibly implement the project and

⁵ See Attachment 3 to City of South Lake Tahoe Report to Planning Commission labeled as Item 2 on Page 9 of the report itself.

⁶ See Attachment 4 to City of South Lake Tahoe Report to Planning Commission labeled as page 28 to the report itself.

⁷ Attachment C; page 9 of Report to Planning Commission, Item 2.

⁸ TRPA Code 37.6.1.

there are no feasible alternatives requiring less additional height.⁹

B. Nobody Can Guarantee The Emissions From The Proposed Tower Will Not Cause Health Problems.

Applicant proposes to radiate a 5G signal from this tower 24 hours a day for an indefinite period, presumably for decades. Nobody can know the health consequences of this for neighbors, although there is undeniably cause for concern. .

We understand in considering radio frequency emissions, the City is limited to insuring that a proposed installation complies with FCC emission standards. This does not mean, however, that the City is precluded from considering the fact that it might be preferable for such potentially carcinogenic emissions to be emanating from a tower located a considerable distance from people's homes, rather than adjacent to them. Similarly, although local municipalities may not prohibit wireless service altogether "**Congress also made it clear that it was preserving the authority of local governments over zoning decisions regarding the placement and construction of the wireless service facilities**, subject to certain limitations, such as regulations that 'shall not prohibit or have the effect of prohibiting the provision of personal wireless services.'" 47 USC §332(c)(7)(B)(i)(II). 1 California Land Use Practice, October 2018 Update (Adam U. Lindgren,, Steven T. Mattas CEB) §12.68, pp 12-62, 12-63, emphasis added.

C. Cell Tower Will Reduce Its Neighbors' Property Values.

If this tower is constructed, Ms. Eisenstecken will likely feel compelled to sell this property where she has lived for 15 years, and hope that a prospective buyer is less concerned about the cell tower than her because, for example, they may only use the house infrequently as a second home, and therefore be less concerned about the pervasive effect of a tower next to one's primary residence. Nevertheless, when Ms. Eisenstecken attempts to sell her property, she will have insult added to her injury, as she will likely find the value of her property to have been greatly reduced. In fact, the existence of a nearby cell phone tower is important enough that Ms. Eisenstecken will be legally required to disclose the existence of the cell tower, as such is specifically called for by the disclosure form (SELLER PROPERTY QUESTIONNAIRE (C.A.R. Form SPQ, Revised 12/16)) used in almost every residential real property sale in California. See **Exhibit B**. See page 4 of 4, line 5.

4. Verizon's Application Is Objectively Deficient.

Aside from failing to provide the "various reasons" why they ruled out "a number of nearby

⁹ TRPA Code 37.7.4; 37.7.7.

parcels” as a suitable site, Verizon’s application contains several inadequacies.

Verizon’s application included the following claims:

“ ● *[Is the project located] within five hundred feet (500') of a stream environment zone or riparian habitat?* ____ YES ____ ☒ NO¹⁰ “

My understanding is that this is not correct and that the distance from the proposed tower to the stream environment zone (“SEZ”) is only 120' (approximately).

“ ● *Does the project involve [a] change in building/structure height?* ____ YES ____ ☒ NO¹¹ “

This is inexcusably inaccurate, as project, if it were allowed, would cause a one hundred twelve foot (112') tower to be erected, which is obviously a change in height over the existing structures on the property of normal height.

“ ● *[Does the project involve] new sources of . . . emissions?* ____ YES ____ ☒ NO¹² “

While this may not cause particulate emissions, there will nevertheless be a high level of radiation emissions emanating from the equipment

“ ● *Applicant contends “nearest house is ~250' away”.*¹³

In fact, the nearest house is actually 89 feet away, the nearest apartment is 99 feet away.

Inaccuracies are specifically a basis for the City to “rescind any approval or take other

¹⁰ See ENVIRONMENTAL INFORMATION FORM, page 2 of 5: page 18 of Report To Planning Commission.

¹¹ See ENVIRONMENTAL INFORMATION FORM, page 3 of 5: page 19 of Report To Planning Commission.

¹² See ENVIRONMENTAL INFORMATION FORM, page 3 of 5; page 19 of Report To Planning Commission.

¹³ See ENVIRONMENTAL INFORMATION FORM, page 4 of 5: page 20 of Report To Planning Commission.

appropriate action".¹⁴ Furthermore, Verizon's failure to supply information upon which the City Council can make meaningful findings that the project is "necessary or desirable [at 1360 Ski Run]" and "is not injurious to the neighborhood"¹⁵ necessitates the application be denied. What is the most important component of considering injury to the neighborhood if not consideration for the neighbors who reside in it?

5. Ms. Eisenstecken Respectfully Disagrees That This Project Is Categorically Exempt From CEQA.

Verizon relies upon two (2) claimed categorical exemptions in support of its contention that it is not subject to review under the California Environmental Quality Act (CEQA). Even assuming, *arguendo*, that statement might normally be accurate, such exemptions are "inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant". 14 Cal. Code of Regs. §15300.2(b). Our understanding is that the instant application is just part of Verizon's master plan, including approval of twenty-four (24) small sites for wireless equipment. Therefore, the cumulative impact of such multiple projects should not escape review just because they are proposed as a series of multiple applications, rather than one comprehensive application.

The first exemption Verizon relies upon is 5303/Class No. 3 which applies to small structures. First, a one hundred twelve feet (112') tower is not a "small structure" under any reasonable definition. Further, when considered within the context of Verizon's comprehensive web of antennas around town, it is part of a larger project which should not escape CEQA review merely because it is done one piece at a time.

Applicant also attempts to rely upon §15332/Class No. 32 which pertains to "infill development projects". Among other requirements, this exemption requires that the project be consistent with "all applicable general plan policies as well as with applicable zoning designation and regulations". 14 Cal. Code of Regs §15332(a). As set forth above, the zoning for this area is designated residential. Discussion under that code section states it "is intended to promote infill development within urbanized areas. The class consists of environmentally benign infill projects". Ms. Eisenstecken does not consider the radio frequency which will be broadcast in her direction from a near point blank range to be benign, but rather malignant.

¹⁴ General Planning Application, page 4 of 6; page 14 City of South Lake Tahoe Report To Planning Commission.

¹⁵ The uncontested and indisputable information is that this tower would be injurious to the neighbors in the neighborhood including Ms. Eisenstecken, her family, and other nearby residents.

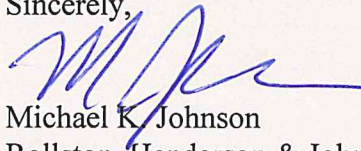
South Lake Tahoe City Council and Mayor
July 30, 2019
Page 8

Conclusion

We trust the City Council will agree with us that it is legally unable and in good conscience to make at least two (2) of the findings required for it to approve this application. Such a decision is not anti-technology, but rather judicious land planning, which will allow technological advancement to flourish when done correctly and with respect for the citizens who live here. The Washoe County Board of Adjustment recently (this year) denied a very similar application to construct a very similar tower in Incline Village, and no different result is warranted here.

Of course, you and staff are free to contact me with any questions or concerns.

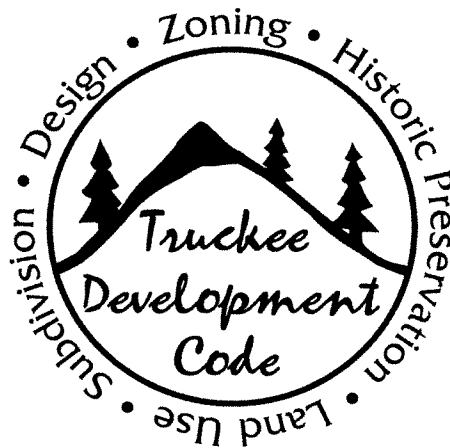
Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Johnson', with a stylized flourish extending to the right.

Michael K. Johnson
Rollston, Henderson & Johnson, Ltd.

EXHIBIT A

Town of Truckee



DEVELOPMENT CODE

Truckee Municipal Code, Title 18

Amended:

January 11, 2019



This Section establishes standards for the development and operation of telecommunications facilities including cellular wireless communications and data network facilities (Subsection A), satellite antennas (Subsection B), single pole/tower amateur radio antennas (Subsection C), and television and radio broadcasting towers (Subsection D).

A. Cellular wireless communications and data network facilities (Large and Small).

Cellular wireless telephone and data network antennas, including supporting towers and related ground-mounted structures and equipment, shall comply with the following requirements.

1. **Permit requirements.** The land use permit requirement for cellular wireless communications and data network facilities shall be as determined by Article II (Zoning Districts and Allowable Land Uses). Large cellular wireless communications and data network facilities shall require approval of a Use Permit; small cellular wireless communications facilities shall require approval of a Minor Use Permit. Plans for the cellular wireless communications and data network facility shall be submitted with the land use permit application in compliance with Chapter 18.70 (Applications, Processing and Fees).
2. **Height.** Cellular wireless communications and data network facilities up to a maximum of 10 feet high shall fall under the definition of a small cellular wireless and data network facility.
3. **Site selection.** Sites for cellular wireless communications and data network facilities shall be selected according to the following order of preference:
 - a. On existing structures (e.g., a church steeple, communication towers, freestanding sign, water tank, etc.);
 - b. In locations where the existing topography, vegetation or other structures provide the greatest amount of screening; or
 - c. On vacant land without significant visual mitigation, only in commercial and manufacturing zoning districts.

As part of the application process, applicants for cellular wireless communication and data network facilities shall be required to provide written documentation demonstrating a good faith effort in locating facilities in compliance with Subsection 2.a (Site selection order of preference), above.

4. **Prohibited areas.** Cellular wireless communications and data network facilities shall not be established within the RS, RM, DRS, DRM and DRH zoning districts.
5. **Co-location.** The Town shall encourage and allow “co-location” of cellular wireless communications and data network equipment on appropriate existing Town structures and towers subject to reasonable engineering requirements. The Town shall encourage utility providers, special districts and other public agencies to allow “co-location” of cellular wireless communications and data network equipment on appropriate existing structures and towers subject to reasonable engineering requirements.

**TABLE 2-1
ZONING DISTRICTS**

Zoning Map Symbol	Zoning District Name	General Plan or Downtown Specific Plan (DSP) Land Use Classification Implemented by Zoning District
Residential Zoning Districts		
RR	Rural Residential	Residential Residential Cluster - 5 acres and 10 acres Open Space Recreation DSP - Single Family Residential
RS	Single-Family Residential	Residential Residential Cluster - 5 acres and 10 acres Open Space Recreation Tahoe Donner PC Public (Hospital/Office)
RM	Multi-Family Residential	Residential High Density Residential Tahoe Donner PC
DRS	Downtown Single-Family Residential	DSP – Single-Family Residential
DRM	Downtown Medium Density Residential	DSP – Single-Family Residential
DRH	Downtown High Density Residential	DSP – Multi-Family Residential
Commercial and Manufacturing Zoning Districts		
CN	Neighborhood Commercial	Residential Residential High Density Commercial Tahoe Donner PC Public (Hospital/Office)
CG	General Commercial	Commercial Industrial Public (Hospital/Office) DSP - Commercial
CH	Highway Commercial	Commercial
CS	Service Commercial	Industrial Commercial
M	Manufacturing/Industrial	Industrial
DMU	Downtown Mixed Use	DSP - Mixed Use
DC	Downtown Commercial	DSP - Commercial
DVL	Downtown Visitor Lodging	DSP - Visitor Lodging
DM	Downtown Manufacturing/Industrial	DSP - Industrial



SELLER PROPERTY QUESTIONNAIRE

(C.A.R. Form SPQ, Revised 12/16)

This form is not a substitute for the Real Estate Transfer Disclosure Statement (TDS). It is used by the Seller to provide additional information when a TDS is completed. If Seller is exempt from completing a TDS, Seller should complete an Exempt Seller Disclosure (C.A.R. Form ESD) or may use this form instead.

I. Seller makes the following disclosures with regard to the real property or manufactured home described as Mar Vista Neighborhood, Assessor's Parcel No. _____,

situated in _____, County of _____ California ("Property").

II. The following are representations made by the Seller and are not the representations of the Agent(s), if any. This disclosure statement is not a warranty of any kind by the Seller or any agents(s) and is not a substitute for any inspections or warranties the principal(s) may wish to obtain. This disclosure is not intended to be part of the contract between Buyer and Seller. Unless otherwise specified in writing, Broker and any real estate licensee or other person working with or through Broker has not verified information provided by Seller. A real estate broker is qualified to advise on real estate transactions. If Seller or Buyer desires legal advice, they should consult an attorney.

III. Note to Seller: PURPOSE: To tell the Buyer about known material or significant items affecting the value or desirability of the Property and help to eliminate misunderstandings about the condition of the Property.

- Answer based on actual knowledge and recollection at this time.
- Something that you do not consider material or significant may be perceived differently by a Buyer.
- Think about what you would want to know if you were buying the Property today.
- Read the questions carefully and take your time.
- If you do not understand how to answer a question, or what to disclose or how to make a disclosure in response to a question, whether on this form or a TDS, you should consult a real estate attorney in California of your choosing. A broker cannot answer the questions for you or advise you on the legal sufficiency of any answers or disclosures you provide.

IV. Note to Buyer: PURPOSE: To give you more information about known material or significant items affecting the value or desirability of the Property and help to eliminate misunderstandings about the condition of the Property.

- Something that may be material or significant to you may not be perceived the same way by the Seller.
- If something is important to you, be sure to put your concerns and questions in writing (C.A.R. form BMI).
- Sellers can only disclose what they actually know. Seller may not know about all material or significant items.
- Seller's disclosures are not a substitute for your own investigations, personal judgments or common sense.

V. SELLER AWARENESS: For each statement below, answer the question "Are you (Seller) aware of..." by checking either "Yes" or "No." Explain any "Yes" answers in the space provided or attach additional comments and check section VI.

A. STATUTORILY OR CONTRACTUALLY REQUIRED OR RELATED: ARE YOU (SELLER) AWARE OF...

1. Within the last 3 years, the death of an occupant of the Property upon the Property [] Yes [] No
2. An Order from a government health official identifying the Property as being contaminated by methamphetamine. (If yes, attach a copy of the Order.) [] Yes [] No
3. The release of an illegal controlled substance on or beneath the Property [] Yes [] No
4. Whether the Property is located in or adjacent to an "industrial use" zone [] Yes [] No
(In general, a zone or district allowing manufacturing, commercial or airport uses.)
5. Whether the Property is affected by a nuisance created by an "industrial use" zone. [] Yes [] No
6. Whether the Property is located within 1 mile of a former federal or state ordnance location. [] Yes [] No
(In general, an area once used for military training purposes that may contain potentially explosive munitions.)
7. Whether the Property is a condominium or located in a planned unit development or other common interest subdivision. [] Yes [] No
8. Insurance claims affecting the Property within the past 5 years [] Yes [] No
9. Matters affecting title of the Property [] Yes [] No
10. Material facts or defects affecting the Property not otherwise disclosed to Buyer [] Yes [] No
11. Plumbing fixtures on the Property that are non-compliant plumbing fixtures as defined by Civil Code Section 1101.3 [] Yes [] No

Explanation, or [] (if checked) see attached; _____

Buyer's Initials () ()

Seller's Initials () ()



Property Address: Mar Vista Neighborhood, .

Date: _____

B. REPAIRS AND ALTERATIONS:

ARE YOU (SELLER) AWARE OF...

1. Any alterations, modifications, replacements, improvements, remodeling or material repairs on the Property (including those resulting from Home Warranty claims) [☐] Yes [☐] No
2. Any alterations, modifications, replacements, improvements, remodeling, or material repairs to the Property done for the purpose of energy or water efficiency improvement or renewable energy? [☐] Yes [☐] No
3. Ongoing or recurring maintenance on the Property (for example, drain or sewer clean-out, tree or pest control service) [☐] Yes [☐] No
4. Any part of the Property being painted within the past 12 months. [☐] Yes [☐] No
5. If this is a pre-1978 Property, were any renovations (i.e., sanding, cutting, demolition) of lead-based paint surfaces completed in compliance with the Environmental Protection Agency Lead-Based Paint Renovation Rule. [☐] Yes [☐] No

Explanation: _____

C. STRUCTURAL, SYSTEMS AND APPLIANCES:

ARE YOU (SELLER) AWARE OF...

1. Defects in any of the following, (including past defects that have been repaired): heating, air conditioning, electrical, plumbing (including the presence of polybutylene pipes), water, sewer, waste disposal or septic system, sump pumps, well, roof, gutters, chimney, fireplace, foundation, crawl space, attic, soil, grading, drainage, retaining walls, interior or exterior doors, windows, walls, ceilings, floors or appliances [☐] Yes [☐] No
2. The leasing of any of the following on or serving the Property: solar system, water softener system, water purifier system, alarm system, or propane tank (s) [☐] Yes [☐] No
3. An alternative septic system on or serving the Property. [☐] Yes [☐] No

Explanation: _____

D. DISASTER RELIEF, INSURANCE OR CIVIL SETTLEMENT:

ARE YOU (SELLER) AWARE OF...

1. Financial relief or assistance, insurance or settlement, sought or received, from any federal, state, local or private agency, insurer or private party, by past or present owners of the Property, due to any actual or alleged damage to the Property arising from a flood, earthquake, fire, other disaster, or occurrence or defect, whether or not any money received was actually used to make repairs [☐] Yes [☐] No

Explanation: _____

E. WATER-RELATED AND MOLD ISSUES:

ARE YOU (SELLER) AWARE OF...

1. Water intrusion into any part of any physical structure on the Property; leaks from or in any appliance, pipe, slab or roof; standing water, drainage, flooding, underground water, moisture, water-related soil settling or slippage, on or affecting the Property [☐] Yes [☐] No
2. Any problem with or infestation of mold, mildew, fungus or spores, past or present, on or affecting the Property [☐] Yes [☐] No
3. Rivers, streams, flood channels, underground springs, high water table, floods, or tides, on or affecting the Property or neighborhood [☐] Yes [☐] No

Explanation: _____

F. PETS, ANIMALS AND PESTS:

ARE YOU (SELLER) AWARE OF...

1. Pets on or in the Property [☐] Yes [☐] No
2. Problems with livestock, wildlife, insects or pests on or in the Property [☐] Yes [☐] No
3. Past or present odors, urine, feces, discoloration, stains, spots or damage in the Property, due to any of the above [☐] Yes [☐] No
4. Past or present treatment or eradication of pests or odors, or repair of damage due to any of the above. [☐] Yes [☐] No

If so, when and by whom _____
Explanation: _____

Buyer's Initials (____) (____)

Seller's Initials (____) (____)

SPQ REVISED 12/16 (PAGE 2 OF 4)

SELLER PROPERTY QUESTIONNAIRE (SPQ PAGE 2 OF 4)

Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 www.zipLogix.com

Monte Vista



Property Address: Mar Vista Neighborhood, ,

Date: _____

G. BOUNDARIES, ACCESS AND PROPERTY USE BY OTHERS:

ARE YOU (SELLER) AWARE OF...

1. Surveys, easements, encroachments or boundary disputes ☐ Yes ☐ No
2. Use or access to the Property, or any part of it, by anyone other than you, with or without permission, for any purpose, including but not limited to, using or maintaining roads, driveways or other forms of ingress or egress or other travel or drainage ☐ Yes ☐ No
3. Use of any neighboring property by you ☐ Yes ☐ No

Explanation: _____

H. LANDSCAPING, POOL AND SPA:

ARE YOU (SELLER) AWARE OF...

1. Diseases or infestations affecting trees, plants or vegetation on or near the Property ☐ Yes ☐ No
2. Operational sprinklers on the Property ☐ Yes ☐ No
 - (a) If yes, are they ☐ automatic or ☐ manually operated.
 - (b) If yes, are there any areas with trees, plants or vegetation not covered by the sprinkler system ☐ Yes ☐ No
3. A pool heater on the Property ☐ Yes ☐ No
 - If yes, is it operational? ☐ Yes ☐ No
4. A spa heater on the Property ☐ Yes ☐ No
 - If yes, is it operational? ☐ Yes ☐ No
5. Past or present defects, leaks, cracks, repairs or other problems with the sprinklers, pool, spa, waterfall, pond, stream, drainage or other water-related decor including any ancillary equipment, including pumps, filters, heaters and cleaning systems, even if repaired ☐ Yes ☐ No

Explanation: _____

I. CONDOMINIUMS, COMMON INTEREST DEVELOPMENTS AND OTHER SUBDIVISIONS:

ARE YOU (SELLER) AWARE OF...

1. Any pending or proposed dues increases, special assessments, rules changes, insurance availability issues, or litigation by or against or fines or violations issued by a Homeowner Association or Architectural Committee affecting the Property. ☐ Yes ☐ No
2. Any declaration of restrictions or Architectural Committee that has authority over improvements made on or to the Property ☐ Yes ☐ No
3. Any improvements made on or to the Property without the required approval of an Architectural Committee or inconsistent with any declaration of restrictions or Architectural Committee requirement. ☐ Yes ☐ No

Explanation: _____

J. TITLE, OWNERSHIP LIENS, AND LEGAL CLAIMS:

ARE YOU (SELLER) AWARE OF...

1. Any other person or entity on title other than Seller(s) signing this form ☐ Yes ☐ No
2. Leases, options or claims affecting or relating to title or use of the Property ☐ Yes ☐ No
3. Past, present, pending or threatened lawsuits, settlements, mediations, arbitrations, tax liens, mechanics' liens, notice of default, bankruptcy or other court filings, or government hearings affecting or relating to the Property, Homeowner Association or neighborhood ☐ Yes ☐ No
4. Any private transfer fees, triggered by a sale of the Property, in favor of private parties, charitable organizations, interest based groups or any other person or entity ☐ Yes ☐ No
5. Any PACE lien (such as HERO or SCEIP) or other lien on your Property securing a loan to pay for an alteration, modification, replacement, improvement, remodel or material repair of the Property? .. ☐ Yes ☐ No
6. The cost of any alteration, modification, replacement, improvement, remodel or material repair of the Property being paid by an assessment on the Property tax bill? ☐ Yes ☐ No

Explanation: _____

K. NEIGHBORHOOD:

ARE YOU (SELLER) AWARE OF...

1. Neighborhood noise, nuisance or other problems from sources such as, but not limited to, the following: neighbors, traffic, parking congestion, airplanes, trains, light rail, subway, trucks,

Buyer's Initials (____) (____)

Seller's Initials (____) (____)



Property Address: Mar Vista Neighborhood, . Date: _____

freeways, buses, schools, parks, refuse storage or landfill processing, agricultural operations, business, odor, recreational facilities, restaurants, entertainment complexes or facilities, parades, sporting events, fairs, neighborhood parties, litter, construction, air conditioning equipment, air compressors, generators, pool equipment or appliances, underground gas pipelines, cell phone towers, high voltage transmission lines, or wildlife ☐ Yes ☐ No

Explanation: _____

L. GOVERNMENTAL:

ARE YOU (SELLER) AWARE OF...

1. Ongoing or contemplated eminent domain, condemnation, annexation or change in zoning or general plan that applies to or could affect the Property ☐ Yes ☐ No
2. Existence or pendency of any rent control, occupancy restrictions, improvement restrictions or retrofit requirements that apply to or could affect the Property. ☐ Yes ☐ No
3. Existing or contemplated building or use moratoria that apply to or could affect the Property ☐ Yes ☐ No
4. Current or proposed bonds, assessments, or fees that do not appear on the Property tax bill that apply to or could affect the Property ☐ Yes ☐ No
5. Proposed construction, reconfiguration, or closure of nearby Government facilities or amenities such as schools, parks, roadways and traffic signals ☐ Yes ☐ No
6. Existing or proposed Government requirements affecting the Property (i) that tall grass, brush or other vegetation be cleared; (ii) that restrict tree (or other landscaping) planting, removal or cutting or (iii) that flammable materials be removed ☐ Yes ☐ No
7. Any protected habitat for plants, trees, animals or insects that apply to or could affect the Property ☐ Yes ☐ No
8. Whether the Property is historically designated or falls within an existing or proposed Historic District ☐ Yes ☐ No
9. Any water surcharges or penalties being imposed by a public or private water supplier, agency or utility; or restrictions or prohibitions on wells or other ground water supplies ☐ Yes ☐ No

Explanation: _____

M. OTHER:

ARE YOU (SELLER) AWARE OF...

1. Reports, inspections, disclosures, warranties, maintenance recommendations, estimates, studies, surveys or other documents, pertaining to (i) the condition or repair of the Property or any improvement on this Property in the past, now or proposed; or (ii) easements, encroachments or boundary disputes affecting the Property whether oral or in writing and whether or not provided to the Seller. ☐ Yes ☐ No
(If yes, provide any such documents in your possession to Buyer.)
2. Any occupant of the Property smoking on or in the Property. ☐ Yes ☐ No
3. Any past or present known material facts or other significant items affecting the value or desirability of the Property not otherwise disclosed to Buyer ☐ Yes ☐ No

Explanation: _____

VI. ☐ (IF CHECKED) **ADDITIONAL COMMENTS:** The attached addendum contains an explanation or additional comments in response to specific questions answered "yes" above. Refer to line and question number in explanation.

Seller represents that Seller has provided the answers and, if any, explanations and comments on this form and any attached addenda and that such information is true and correct to the best of Seller's knowledge as of the date signed by Seller. Seller acknowledges (i) Seller's obligation to disclose information requested by this form is independent from any duty of disclosure that a real estate licensee may have in this transaction; and (ii) nothing that any such real estate licensee does or says to Seller relieves Seller from his/her own duty of disclosure.

Seller _____ Date _____
Seller _____ Date _____

By signing below, Buyer acknowledges that Buyer has read, understands and has received a copy of this Seller Property Questionnaire form.

Buyer _____ Date _____
Buyer _____ Date _____

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Reviewed by _____ Date _____

SPQ REVISED 12/16 (PAGE 4 OF 4)

SELLER PROPERTY QUESTIONNAIRE (SPQ PAGE 4 OF 4)

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Monte Vista



EXHIBIT (B)(e)(iv)(1)



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FEB - 7 2014



In Reply Refer To: (ER 14/0001) (ER 14/0004).

Mr. Eli Veenendaal
National Telecommunications and Information
Administration
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Mr. Veenendaal:

The Department of the Interior (Department) has reviewed the above referenced proposal and submits the following comments and attachment for consideration. Because the First Responder Network Authority (FirstNet) is a newly created entity, we commend the U.S. Department of Commerce for its timely proposals for NEPA implementing procedures.

The Department believes that some of the proposed procedures are not consistent with **Executive Order 13186 Responsibilities of Federal Agencies to Protect Migratory Birds**, which specifically requires federal agencies to develop and use principles, standards, and practices that will lessen the amount of unintentional take reasonably attributed to agency actions. The Department, through the Fish and Wildlife Service (FWS), finds that the proposals lack provisions necessary to conserve migratory bird resources, including eagles. The proposals also do not reflect **current information regarding the effects of communication towers to birds**. Our comments are intended to further clarify specific issues and address provisions in the proposals.

The Department recommends revisions to the proposed procedures to better reflect the impacts to resources under our jurisdiction from communication towers. **The placement and operation of communication towers, including un-guyed, unlit, monopole or lattice-designed structures, impact protected migratory birds in two significant ways. The first is by injury, crippling loss, and death from collisions with towers and their supporting guy-wire infrastructure, where present. The second significant issue associated with communication towers involves impacts from non-ionizing electromagnetic radiation emitted by them** (See Attachment).

In addition to the 147 Birds of Conservation Concern (BCC) species, the FWS has listed an additional 92 species as endangered or threatened under the Endangered Species Act. Together with the **bald and golden eagle**, this represents 241 species of birds **whose populations are in trouble or otherwise merit special protection**, according to the varying criteria of these lists. The Department suggests that FirstNet consider preparing a programmatic environmental impact statement (see attachment) to determine and address cumulative impacts from authorizing FirstNet projects on those 241 species for which the incremental impact of tower mortality, when

added to other past, present, and reasonably foreseeable future actions, is most likely significant, given their overall imperiled status. Notwithstanding the proposed implementing procedures, a programmatic NEPA document might be the most effective and efficient method for establishing best management practices for individual projects, reducing the burden to individual applicants, and addressing cumulative impacts.

Categorical Exclusions

The Department has identified 13 of the proposed categorical exclusions (A-6, A-7, A-8, A-9, A-10, A-11, A-12, A-13, A-14 A-15, A-16, A-17, and A-19) as having the potential to significantly affect wildlife and the biological environment. Given this potential, we want to underscore the importance of our comments on FirstNet's procedural guidance under Environmental Review and Consultation Requirements for NEPA Reviews and its list of extraordinary circumstances in Appendix D.

Environmental Review and Consultation Requirements for NEPA Reviews

To ensure there are no potentially significant impacts on birds from projects that may otherwise be categorically excluded, the Department recommends including the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act to the list of requirements in this section.

Extraordinary Circumstances

To avoid potentially significant impacts on birds from projects that may otherwise be categorically excluded, the Department recommends including species covered under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act to the list of environmentally sensitive resources. Additionally, adding important resources to migratory birds such as sites in the Western Hemisphere Shorebird Reserve Network and Audubon Important Bird Areas to the paragraph on areas having special designation or recognition would help ensure their consideration when contemplating use of a categorical exclusion.

Developing the Purpose and Need

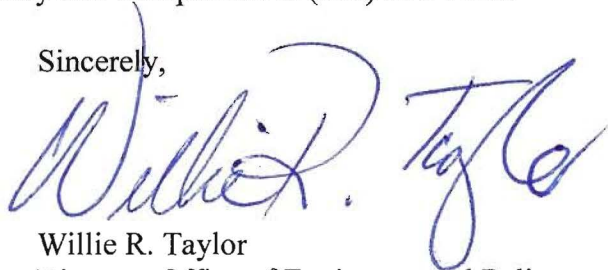
The Department recommends inclusion of language that would ensure consideration of all other authorities to which NEPA is supplemental as opposed to simply the FirstNet mission. As currently written, the procedures are limited to ensuring the purpose and need considers the FirstNet mission. If strictly applied, this approach would severely limit the range of reasonable alternatives, and likely preclude consideration of more environmentally benign locations or construction practices.

Environmental Review Process, Apply NEPA Early in the Process, Where Action is by Non-Federal Entity

The Department recommends that FirstNet be required to coordinate with federal agencies having jurisdiction by law or special expertise on construction and lighting of its network of towers.

Thank you for the opportunity to comment on the draft document. If you have any questions concerning the comments, please contact Diana Whittington, NEPA Migratory Bird lead, at (703) 358-2010. If you have any questions regarding Departmental NEPA procedures, contact Lisa Treichel, Office of Environmental Policy and Compliance at (202) 208-7116.

Sincerely,

A handwritten signature in blue ink, appearing to read "Willie R. Taylor". The signature is fluid and cursive, with the first name "Willie" being the most prominent part.

Willie R. Taylor
Director, Office of Environmental Policy
and Compliance

Enclosure

Literature Cited

- Longcore, T., C. Rich, P. Mineau, B. MacDonald, D.G. Bert, L.M. Sullivan, E. Mutrie, S.A. Gauthreaux, Jr., M.L. Avery, R.C. Crawford, A.M. Manville, II, E.R. Travis, and D. Drake. 2013. Avian mortality at communication towers in the United States and Canada: which species, how many, and where? *Biological Conservation* 158: 410-419.
- U.S. Fish and Wildlife Service. 2008. Birds of Conservation Concern, 2008. United States Department of Interior, Fish and Wildlife Service, Division of Migratory Bird Management, Arlington, VA. 85 pages. <http://www.fws.gov/migratorybirds>.

Enclosure A

Background

The placement and operation of communication towers, including un-guyed, unlit, monopole or lattice-designed structures, impact protected migratory birds in two significant ways.

The first is by injury, crippling loss, and death from collisions with towers and their supporting guy-wire infrastructure, where present. Mass mortality events tend to occur during periods of peak spring and fall songbird bird migration when inclement weather events coincide with migration, and frequently where lights (either on the towers and/or on adjacent outbuildings) are also present. This situation has been well documented in the U.S. since 1948 in the published literature (Aronoff 1949, see Manville 2007a for a critique). The tallest communication towers tend to be the most problematic (Gehring *et al.* 2011). However, mid-range (~400-ft) towers as proposed by the First Responder Network Authority (FirstNet, a newly created entity under the Department of Commerce) can also significantly impact protected migratory birds, as can un-guyed and unlit lattice and monopole towers (Gehring *et al.* 2009, Manville 2007a, 2009, 2013a). Mass mortalities (more than several hundred birds per night) at unguyed, unlit monopole and lattice towers were documented in fall 2005 and 2011 in the Northeast and North Central U.S. (*e.g.*, Manville 2007a). It has been argued that communication towers including “short” towers do not impact migratory birds, including at the population level (*e.g.*, Arnold and Zink 2011), but recent findings have contradicted that assertion (Manville 2007a, 2013a, Longcore *et al.* 2012, 2013).

The second significant issue associated with communication towers involves impacts from non-ionizing electromagnetic radiation emitted by these structures. Radiation studies at cellular communication towers were begun circa 2000 in Europe and continue today on wild nesting birds. Study results have documented nest and site abandonment, plumage deterioration, locomotion problems, reduced survivorship, and death (*e.g.*, Balmori 2005, Balmori and Hallberg 2007, and Everaert and Bauwens 2007). Nesting migratory birds and their offspring have apparently been affected by the radiation from cellular phone towers in the 900 and 1800 MHz frequency ranges – 915 MHz is the standard cellular phone frequency used in the United States. However, the electromagnetic radiation standards used by the Federal Communications Commission (FCC) continue to be based on thermal heating, a criterion now nearly 30 years out of date and inapplicable today. This is primarily due to the lower levels of radiation output from microwave-powered communication devices such as cellular telephones and other sources of point-to-point communications; levels typically lower than from microwave ovens. The problem, however, appears to focus on very low levels of non-ionizing electromagnetic radiation. For example, in laboratory studies, T. Litovitz (personal communication) and DiCarlo *et al.* (2002) raised concerns about impacts of low-level, non-thermal electromagnetic radiation from the standard 915 MHz cell phone frequency on domestic chicken embryos – with some lethal results (Manville 2009, 2013a). Radiation at extremely low levels (0.0001 the level emitted by the average digital cellular telephone) caused heart attacks and the deaths of some chicken embryos subjected to hypoxic conditions in the laboratory while controls subjected to hypoxia were unaffected (DiCarlo *et al.* 2002). To date, no independent, third-party field studies have been conducted in North America on impacts of tower electromagnetic radiation on migratory birds. With the European field and U.S. laboratory evidence already available,

independent, third-party peer-reviewed studies need to be conducted in the U.S. to begin examining the effects from radiation on migratory birds and other trust species.

Discussion

Collision Deaths and Categorical Exclusions

Attempts to estimate bird-collision mortality at communication towers in the U.S. resulted in figures of 4-5 million bird deaths per year (Manville 2005, 2009). A meta-review of the published literature now suggests, based on statistically determined parameters, that mortality may be 6.8 million birds per year in Canada and the U.S.; the vast majority in the United States (Longcore *et al.* 2012). Up to 350 species of birds have been killed at communication towers (Manville 2007a, 2009). The Service's Division of Migratory Bird Management has updated its voluntary, 2000 communication tower guidelines to reflect some of the more recent research findings (Manville 2013b). However, the level of estimated mortality alone suggests at a minimum that FirstNet prepare an environmental assessment to estimate and assess the cumulative effects of tower mortality to protected migratory birds.

A second meta-review of the published mortality data from scientific studies conducted in the U.S. and Canada (Longcore *et al.* 2013) strongly correlates population effects to at least 13 species of Birds of Conservation Concern (BCC, USFWS 2008). These are mortalities to BCC species based solely on documented collisions with communication towers in the U.S. and Canada, ranging from estimated annual levels of mortality of 1 to 9% of their estimated total population. Among these where mortality at communication towers was estimated at over 2% annually are the Yellow Rail, Swainson's Warbler, Pied-billed Grebe, Bay-breasted Warbler, Golden-winged Warbler, Prairie Warbler, and Ovenbird. Longcore *et al.* (2013) emphasized that avian mortality associated with anthropogenic sources is almost always reported in the aggregate, *i.e.*, "number of birds killed," which cannot detect species-level effects necessary to make effective and meaningful conservation assessments, including determining cumulative effects. These new findings strongly suggest the need for at least an environmental assessment by FirstNet, or more likely, an environmental impact statement.

Radiation Impacts and Categorical Exclusions

There is a growing level of anecdotal evidence linking effects of non-thermal, non-ionizing electromagnetic radiation from communication towers on nesting and roosting wild birds and other wildlife in the U.S. Independent, third-party studies have yet to be conducted in the U.S. or Canada, although a peer-reviewed research protocol developed for the U.S. Forest Service by the Service's Division of Migratory Bird Management is available to study both collision and radiation impacts (Manville 2002).

As previously mentioned, Balmori (2005) found strong negative correlations between levels of tower-emitted microwave radiation and bird breeding, nesting, and roosting in the vicinity of electromagnetic fields in Spain. He documented nest and site abandonment, plumage deterioration, locomotion problems, reduced survivorship, and death in House Sparrows, White Storks, Rock Doves, Magpies, Collared Doves, and other species. Though these species had historically been documented to roost and nest in these areas, Balmori (2005) did not observe these symptoms prior to construction and operation of the cellular phone towers. Balmori and Hallberg (2007) and Everaert and Bauwens (2007) found similar strong negative correlations

among male House Sparrows. Under laboratory conditions, DiCarlo *et al.* (2002) raised troubling concerns about impacts of low-level, non-thermal electromagnetic radiation from the standard 915 MHz cell phone frequency on domestic chicken embryos – with some lethal results (Manville 2009). Given the findings of the studies mentioned above, field studies should be conducted in North America to validate potential impacts of communication tower radiation – both direct and indirect – to migratory birds and other trust wildlife species.

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- DiCarlo, A., N. White, F. Guo, P. Garrett, and T. Litovitz. 2002. Chronic electromagnetic field exposure decreases HSP70 levels and lowers cytoprotection. *Journal Cellular Biochemistry* 84: 447-454.
- Everaert, J., and D. Bauwens. 2007. A possible effect of electromagnetic radiation from mobile phone base stations on the number of breeding House Sparrows (*Passer domesticus*). *Electromagnetic Biology and Medicine* 26:63-72.
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- Longcore, T., C. Rich, P. Mineau, B. MacDonald, D.G. Bert, L.M. Sullivan, E. Mutrie, S.A. Gauthreaux, Jr., M.L. Avery, R.C. Crawford, A.M. Manville, II, E.R. Travis, and D. Drake. 2013. Avian mortality at communication towers in the United States and Canada: which species, how many, and where? *Biological Conservation* 158: 410-419.
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- Manville, A.M., II. 2005. Bird strikes and electrocutions at power lines, communication towers, and wind turbines: state of the art and state of the science – next steps toward mitigation. Pages 1051-1064 *In* C.J. Ralph and T.D. Rich (eds), *Bird Conservation Implementation in the Americas: Proceedings 3rd International Partners in Flight Conference*, U.S.D.A. Forest Service Gen. Technical Report PSW-GTR-191, Albany, CA.
- Manville, A.M., II. 2007a. Comments of the U.S. Fish and Wildlife Service submitted electronically to the FCC on 47 CFR Parts 1 and 17, WT Docket No. 03-187, FCC 06-164, Notice of Proposed Rulemaking, “Effects of Communication Towers on Migratory Birds.” February 2, 2007. 32 pp.
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- Manville, A.M., II. 2011. Estimates of annual human-caused mortality to North American birds (with literature citations). Division of Migratory Bird Management, USFWS, for public distribution. 12 pages.
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- Manville, A.M., II. 2013b. U.S. Fish and Wildlife Service (USFWS) revised guidelines for communication tower design, siting, construction, operation, retrofitting, and decommissioning -- Suggestions based on previous USFWS recommendations to FCC regarding WT Docket No. 03-187, FCC 06-164, Notice of Proposed Rulemaking, "Effects of Communication Towers on Migratory Birds," Docket No. 08-61, FCC's Antenna Structure Registration Program, and Service 2012 Wind Energy Guidelines. Division of Migratory Bird Management, Arlington, VA. 5 pages.
- U.S. Fish and Wildlife Service. 2008. *Birds of Conservation Concern, 2008*. United States Department of Interior, Fish and Wildlife Service, Division of Migratory Bird Management, Arlington, VA. 85 pages. <http://www.fws.gov/migratorybirds>.

EXHIBIT (B)(e)(iv)(2)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 16 2002

OFFICE OF
AIR AND RADIATION

Ms. Janet Newton
President
The EMR Network
P.O. Box 221
Marshfield, VT 05658

Dear Ms. Newton:

This is in reply to your letter of January 31, 2002, to the Environmental Protection Agency (EPA) Administrator Whitman, in which you express your concerns about the adequacy of the Federal Communications Commission's (FCC) radiofrequency (RF) radiation exposure guidelines and nonthermal effects of radiofrequency radiation. Another issue that you raise in your letter is the FCC's claim that EPA shares responsibility for recommending RF radiation protection guidelines to the FCC. I hope that my reply will clarify EPA's position with regard to these concerns. I believe that it is correct to say that there is uncertainty about whether or not current guidelines adequately treat nonthermal, prolonged exposures (exposures that may continue on an intermittent basis for many years). The explanation that follows is basically a summary of statements that have been made in other EPA documents and correspondence.

The guidelines currently used by the FCC were adopted by the FCC in 1996. The guidelines were recommended by EPA, with certain reservations, in a letter to Thomas P. Stanley, Chief Engineer, Office of Engineering and Technology, Federal Communications Commission, November 9, 1993, in response to the FCC's request for comments on their Notice of Proposed Rulemaking (NPRM), Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (enclosed).

The FCC's current exposure guidelines, as well as those of the Institute of Electrical and Electronics Engineers (IEEE) and the International Commission on Non-ionizing Radiation Protection, are thermally based, and do not apply to chronic, nonthermal exposure situations. They are believed to protect against injury that may be caused by acute exposures that result in tissue heating or electric shock and burn. The hazard level (for frequencies generally at or greater than 3 MHz) is based on a specific absorption dose-rate, SAR, associated with an effect

that results from an increase in body temperature. The FCC's exposure guideline is considered protective of effects arising from a thermal mechanism but not from all possible mechanisms. Therefore, the generalization by many that the guidelines protect human beings from harm by any or all mechanisms is not justified.

These guidelines are based on findings of an adverse effect level of 4 watts per kilogram (W/kg) body weight. This SAR was observed in laboratory research involving acute exposures that elevated the body temperature of animals, including nonhuman primates. The exposure guidelines did not consider information that addresses nonthermal, prolonged exposures, i.e., from research showing effects with implications for possible adversity in situations involving chronic/prolonged, low-level (nonthermal) exposures. Relatively few chronic, low-level exposure studies of laboratory animals and epidemiological studies of human populations have been reported and the majority of these studies do not show obvious adverse health effects. However, there are reports that suggest that potentially adverse health effects, such as cancer, may occur. Since EPA's comments were submitted to the FCC in 1993, the number of studies reporting effects associated with both acute and chronic low-level exposure to RF radiation has increased.

While there is general, although not unanimous, agreement that the database on low-level, long-term exposures is not sufficient to provide a basis for standards development, some contemporary guidelines state explicitly that their adverse-effect level is based on an increase in body temperature and do not claim that the exposure limits protect against both thermal and nonthermal effects. The FCC does not claim that their exposure guidelines provide protection for exposures to which the 4 W/kg SAR basis does not apply, i.e., exposures below the 4 W/kg threshold level that are chronic/prolonged and nonthermal. However, exposures that comply with the FCC's guidelines generally have been represented as "safe" by many of the RF system operators and service providers who must comply with them, even though there is uncertainty about possible risk from nonthermal, intermittent exposures that may continue for years.

The 4 W/kg SAR, a whole-body average, time-average dose-rate, is used to derive dose-rate and exposure limits for situations involving RF radiation exposure of a person's entire body from a relatively remote radiating source. Most people's greatest exposures result from the use of personal communications devices that expose the head. In summary, the current exposure guidelines used by the FCC are based on the effects resulting from whole-body heating, not exposure of and effect on critical organs including the brain and the eyes. In addition, the maximum permitted local SAR limit of 1.6 W/kg for critical organs of the body is related directly to the permitted whole body average SAR (0.08 W/kg), with no explanation given other than to limit heating.

I also have enclosed a letter written in June of 1999 to Mr. Richard Tell, Chair, IEEE SCC28 (SC4) Risk Assessment Work Group, in which the members of the Radiofrequency Interagency Work Group (RFIAWG) identified certain issues that they had determined needed to be addressed in order to provide a strong and credible rationale to support RF exposure guidelines.

Federal health and safety agencies have not yet developed policies concerning possible risk from long-term, nonthermal exposures. When developing exposure standards for other physical agents such as toxic substances, health risk uncertainties, with emphasis given to sensitive populations, are often considered. Incorporating information on exposure scenarios involving repeated short duration/nonthermal exposures that may continue over very long periods of time (years), with an exposed population that includes children, the elderly, and people with various debilitating physical and medical conditions, could be beneficial in delineating appropriate protective exposure guidelines.

I appreciate the opportunity to be of service and trust that the information provided is helpful. If you have further questions, my phone number is (202) 564-9235 and e-mail address is hankin.norbert@epa.gov.

Sincerely,



Norbert Hankin
Center for Science and Risk Assessment
Radiation Protection Division

Enclosures:

- 1) letter to Thomas P. Stanley, Chief Engineer, Office of Engineering and Technology, Federal Communications Commission, November 9, 1993, in response to the FCC's request for comments on their Notice of Proposed Rulemaking (NPRM), Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation
- 2) June 1999 letter to Mr. Richard Tell, Chair, IEEE SCC28 (SC4) Risk Assessment Work Group from the Radiofrequency Radiation Interagency Work Group

EXHIBIT C

Federal Register

Vol. 62, No. 148

Friday, August 1, 1997

Presidential Documents

Title 3—

Executive Order 13057 of July 26, 1997

The President

Federal Actions in the Lake Tahoe Region

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure that Federal agency actions protect the extraordinary natural, recreational, and ecological resources in the Lake Tahoe Region (“Region”) (as defined by Public Law 91-148), an area of national concern, it is hereby ordered as follows:

Section 1. *Tahoe Federal Interagency Partnership.*

1-101. The Federal agencies and departments having principal management or jurisdictional authorities in the Lake Tahoe Region are directed to establish a Federal Interagency Partnership on the Lake Tahoe Ecosystem (“Partnership”).

1-102. Members of the Partnership shall include the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, the Secretary of the Army, and the heads of any other Federal agencies operating in the Region that choose to participate. Representation on the Partnership may be delegated. The Partnership shall be chaired by the Secretary of Agriculture for the first year after its establishment. The Chair of the Partnership shall thereafter be rotated among the members on an annual basis.

1-103. The Partnership will:

(a) facilitate coordination of Federal programs, projects, and activities within the Lake Tahoe Region and promotion of consistent policies and strategies to address the Region’s environmental and economic concerns;

(b) encourage Federal agencies within the Region to coordinate and share resources and data, avoid unnecessary duplication of Federal efforts, and eliminate inefficiencies in Federal action to the greatest extent feasible;

(c) ensure that Federal agencies closely coordinate with the States of California and Nevada and appropriate tribal or local government entities to facilitate the achievement of desired terrestrial and aquatic ecosystem conditions and the enhancement of recreation, tourism, and other economic opportunities within the Region;

(d) support appropriate regional programs and studies needed to attain environmental threshold standards for water quality, transportation, air quality, vegetation, soils (stream environment zone restoration), wildlife habitat, fish habitat, scenic resources, recreation, and noise;

(e) encourage the development of appropriate public, private, and tribal partnerships for the restoration and management of the Lake Tahoe ecosystem and the health of the local economy;

(f) support appropriate actions to improve the water quality of Lake Tahoe through all appropriate means, including restoration of shorelines, streams, riparian zones, wetlands, and other parts of the watershed; management of uses of the lake; and control of airborne and other sources of contaminants;

(g) encourage the development of appropriate vegetative management actions necessary to attain a healthy Lake Tahoe ecosystem, including a program of revegetation, road maintenance, obliteration, and promotion of forest health;

(h) support appropriate regional transportation and air quality goals, programs, and studies for the Region;

(i) support appropriate fisheries and wildlife habitat restoration programs for the Region, including programs for endangered species and uncommon species;

(j) facilitate coordination of research and monitoring activities for purposes of developing a common natural resources data base and geographic information system capability, in cooperation with appropriate regional and local colleges and universities;

(k) support development of and communication about appropriate recreation plans and programs, appropriate scenic quality improvement programs, and recognition for traditional Washoe tribal uses;

(l) support regional partnership efforts to inform the public of the values of managing the Lake Tahoe Region to achieve environmental and economic goals;

(m) explore opportunities for public involvement in achieving its activities; and

(n) explore opportunities for assisting regional governments in their efforts.

1-104. The Partnership will report back to the President in 90 days on the implementation of the terms of this order.

Sec. 2. Memorandum of Agreement.

2-201. The Partnership shall negotiate a Memorandum of Agreement with the States of California and Nevada, the Washoe Tribal Government, the Tahoe Regional Planning Agency, and interested local governments.

2-202. The Memorandum of Agreement shall be designed to facilitate coordination among the parties to the Agreement, and shall document areas of mutual interest and concern and opportunities for cooperation, support, or assistance.

Sec. 3. General Provisions.

3-301. The Chair of the Partnership shall advise the President on the implementation of this order. The Chair may recommend other administrative actions that may be taken to improve the coordination of agency actions and decisions whenever such coordination would protect and enhance the Region's natural, ecological, and economic values.

3-302. Nothing in this order shall be construed to limit, delay, or prohibit any agency action that is essential for the protection of public health or safety, for national security, or for the maintenance or rehabilitation of environmental quality within the Region.

3-303. Nothing in this order is intended to create, and this order does not create, any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,
July 26, 1997.

Presidential Documents

Title 3—

Executive Order 13186 of January 10, 2001

The President

Responsibilities of Federal Agencies To Protect Migratory Birds

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in furtherance of the purposes of the migratory bird conventions, the Migratory Bird Treaty Act (16 U.S.C. 703–711), the Bald and Golden Eagle Protection Acts (16 U.S.C. 668–668d), the Fish and Wildlife Coordination Act (16 U.S.C. 661–666c), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), and other pertinent statutes, it is hereby ordered as follows:

Section 1. Policy. Migratory birds are of great ecological and economic value to this country and to other countries. They contribute to biological diversity and bring tremendous enjoyment to millions of Americans who study, watch, feed, or hunt these birds throughout the United States and other countries. The United States has recognized the critical importance of this shared resource by ratifying international, bilateral conventions for the conservation of migratory birds. Such conventions include the Convention for the Protection of Migratory Birds with Great Britain on behalf of Canada 1916, the Convention for the Protection of Migratory Birds and Game Mammals-Mexico 1936, the Convention for the Protection of Birds and Their Environment-Japan 1972, and the Convention for the Conservation of Migratory Birds and Their Environment-Union of Soviet Socialist Republics 1978.

These migratory bird conventions impose substantive obligations on the United States for the conservation of migratory birds and their habitats, and through the Migratory Bird Treaty Act (Act), the United States has implemented these migratory bird conventions with respect to the United States. This Executive Order directs executive departments and agencies to take certain actions to further implement the Act.

Sec. 2. Definitions. For purposes of this order:

(a) “Take” means take as defined in 50 C.F.R. 10.12, and includes both “intentional” and “unintentional” take.

(b) “Intentional take” means take that is the purpose of the activity in question.

(c) “Unintentional take” means take that results from, but is not the purpose of, the activity in question.

(d) “Migratory bird” means any bird listed in 50 C.F.R. 10.13.

(e) “Migratory bird resources” means migratory birds and the habitats upon which they depend.

(f) “Migratory bird convention” means, collectively, the bilateral conventions (with Great Britain/Canada, Mexico, Japan, and Russia) for the conservation of migratory bird resources.

(g) “Federal agency” means an executive department or agency, but does not include independent establishments as defined by 5 U.S.C. 104.

(h) “Action” means a program, activity, project, official policy (such as a rule or regulation), or formal plan directly carried out by a Federal agency. Each Federal agency will further define what the term “action” means with respect to its own authorities and what programs should be included

in the agency-specific Memoranda of Understanding required by this order. Actions delegated to or assumed by nonfederal entities, or carried out by nonfederal entities with Federal assistance, are not subject to this order. Such actions, however, continue to be subject to the Migratory Bird Treaty Act.

(i) "Species of concern" refers to those species listed in the periodic report "Migratory Nongame Birds of Management Concern in the United States," priority migratory bird species as documented by established plans (such as Bird Conservation Regions in the North American Bird Conservation Initiative or Partners in Flight physiographic areas), and those species listed in 50 C.F.R. 17.11.

Sec. 3. Federal Agency Responsibilities. (a) Each Federal agency taking actions that have, or are likely to have, a measurable negative effect on migratory bird populations is directed to develop and implement, within 2 years, a Memorandum of Understanding (MOU) with the Fish and Wildlife Service (Service) that shall promote the conservation of migratory bird populations.

(b) In coordination with affected Federal agencies, the Service shall develop a schedule for completion of the MOUs within 180 days of the date of this order. The schedule shall give priority to completing the MOUs with agencies having the most substantive impacts on migratory birds.

(c) Each MOU shall establish protocols for implementation of the MOU and for reporting accomplishments. These protocols may be incorporated into existing actions; however, the MOU shall recognize that the agency may not be able to implement some elements of the MOU until such time as the agency has successfully included them in each agency's formal planning processes (such as revision of agency land management plans, land use compatibility guidelines, integrated resource management plans, and fishery management plans), including public participation and NEPA analysis, as appropriate. This order and the MOUs to be developed by the agencies are intended to be implemented when new actions or renewal of contracts, permits, delegations, or other third party agreements are initiated as well as during the initiation of new, or revisions to, land management plans.

(d) Each MOU shall include an elevation process to resolve any dispute between the signatory agencies regarding a particular practice or activity.

(e) Pursuant to its MOU, each agency shall, to the extent permitted by law and subject to the availability of appropriations and within Administration budgetary limits, and in harmony with agency missions:

(1) support the conservation intent of the migratory bird conventions by integrating bird conservation principles, measures, and practices into agency activities and by avoiding or minimizing, to the extent practicable, adverse impacts on migratory bird resources when conducting agency actions;

(2) restore and enhance the habitat of migratory birds, as practicable;

(3) prevent or abate the pollution or detrimental alteration of the environment for the benefit of migratory birds, as practicable;

(4) design migratory bird habitat and population conservation principles, measures, and practices, into agency plans and planning processes (natural resource, land management, and environmental quality planning, including, but not limited to, forest and rangeland planning, coastal management planning, watershed planning, etc.) as practicable, and coordinate with other agencies and nonfederal partners in planning efforts;

(5) within established authorities and in conjunction with the adoption, amendment, or revision of agency management plans and guidance, ensure that agency plans and actions promote programs and recommendations of comprehensive migratory bird planning efforts such as Partners-in-Flight, U.S. National Shorebird Plan, North American Waterfowl Management Plan, North American Colonial Waterbird Plan, and other planning efforts, as well as guidance from other sources, including the Food and Agricultural

Organization's International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries;

(6) ensure that environmental analyses of Federal actions required by the NEPA or other established environmental review processes evaluate the effects of actions and agency plans on migratory birds, with emphasis on species of concern;

(7) provide notice to the Service in advance of conducting an action that is intended to take migratory birds, or annually report to the Service on the number of individuals of each species of migratory birds intentionally taken during the conduct of any agency action, including but not limited to banding or marking, scientific collecting, taxidermy, and depredation control;

(8) minimize the intentional take of species of concern by: (i) delineating standards and procedures for such take; and (ii) developing procedures for the review and evaluation of take actions. With respect to intentional take, the MOU shall be consistent with the appropriate sections of 50 C.F.R. parts 10, 21, and 22;

(9) identify where unintentional take reasonably attributable to agency actions is having, or is likely to have, a measurable negative effect on migratory bird populations, focusing first on species of concern, priority habitats, and key risk factors. With respect to those actions so identified, the agency shall develop and use principles, standards, and practices that will lessen the amount of unintentional take, developing any such conservation efforts in cooperation with the Service. These principles, standards, and practices shall be regularly evaluated and revised to ensure that they are effective in lessening the detrimental effect of agency actions on migratory bird populations. The agency also shall inventory and monitor bird habitat and populations within the agency's capabilities and authorities to the extent feasible to facilitate decisions about the need for, and effectiveness of, conservation efforts;

(10) within the scope of its statutorily-designated authorities, control the import, export, and establishment in the wild of live exotic animals and plants that may be harmful to migratory bird resources;

(11) promote research and information exchange related to the conservation of migratory bird resources, including coordinated inventorying and monitoring and the collection and assessment of information on environmental contaminants and other physical or biological stressors having potential relevance to migratory bird conservation. Where such information is collected in the course of agency actions or supported through Federal financial assistance, reasonable efforts shall be made to share such information with the Service, the Biological Resources Division of the U.S. Geological Survey, and other appropriate repositories of such data (e.g., the Cornell Laboratory of Ornithology);

(12) provide training and information to appropriate employees on methods and means of avoiding or minimizing the take of migratory birds and conserving and restoring migratory bird habitat;

(13) promote migratory bird conservation in international activities and with other countries and international partners, in consultation with the Department of State, as appropriate or relevant to the agency's authorities;

(14) recognize and promote economic and recreational values of birds, as appropriate; and

(15) develop partnerships with non-Federal entities to further bird conservation.

(f) Notwithstanding the requirement to finalize an MOU within 2 years, each agency is encouraged to immediately begin implementing the conservation measures set forth above in subparagraphs (1) through (15) of this section, as appropriate and practicable.

(g) Each agency shall advise the public of the availability of its MOU through a notice published in the **Federal Register**.

Sec. 4. Council for the Conservation of Migratory Birds. (a) The Secretary of Interior shall establish an interagency Council for the Conservation of Migratory Birds (Council) to oversee the implementation of this order. The Council's duties shall include the following: (1) sharing the latest resource information to assist in the conservation and management of migratory birds; (2) developing an annual report of accomplishments and recommendations related to this order; (3) fostering partnerships to further the goals of this order; and (4) selecting an annual recipient of a Presidential Migratory Bird Federal Stewardship Award for contributions to the protection of migratory birds.

(b) The Council shall include representation, at the bureau director/administrator level, from the Departments of the Interior, State, Commerce, Agriculture, Transportation, Energy, Defense, and the Environmental Protection Agency and from such other agencies as appropriate.

Sec. 5. Application and Judicial Review. (a) This order and the MOU to be developed by the agencies do not require changes to current contracts, permits, or other third party agreements.

(b) This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, separately enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.



THE WHITE HOUSE,
January 10, 2001.

Office of the White House Press Secretary May 24, 1977

THE WHITE HOUSE

EXECUTIVE ORDER 11990

PROTECTION OF WETLANDS

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), in order to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative, it is hereby ordered as follows:

Section 1. (a) Each agency :shall provide leadership and shall take action to the destruction, loss or degradation of wetlands, and to preserve and enhance natural and beneficial values of wetlands in carrying out the agency's responsibilities (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvement; and 3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

(b) This order does not apply to the issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal

Sec. 2. (a) In furtherance of Section 101(b)(3) of the National Environmental Policy Act of 1969 (42 U.S.C. 4331(b)(3)) to improve and coordinate Federal plans, functions, programs and resources to the end that the Nation may attain the widest range of beneficial uses of the environment without degradation risk to health or safety, each agency, to the extent permitted by law, shall avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use. In making this finding the head of the agency may take into account economic, environmental and other pertinent factors.

(b) Each agency shall also provide opportunity for early public review of any plans or proposals for new construction in wetlands, in accordance with Section 2(b) of Executive Order No. 11514, as amended, including the development of procedures to accomplish this objective for Federal actions whose impact is not significant enough to require the preparation of an environmental impact statement under on 102(2)(C) of the National Environmental Policy Act of 1969, as amended.

Sec. 3. Any requests for new authorizations or appropriations transmitted to the Office of Management and Budget shall indicate, if an action to be proposed will be located in wetlands, whether the proposed action is in accord with this Order.

Sec. 4. When Federally-owned wetlands or portions of wetlands are proposed for load, easement, right-of-way or disposal to non-Federal public or private parties, the Federal agency shall (a) reference in the conveyance those uses that are restricted under identified Federal, State or local wetlands regulations; and (b) attach other appropriate restrictions to the uses of properties by the grantee or purchaser and any successor. except where prohibited by law; or (c) withhold such properties from disposal.

Sec. 5. In carrying out the activities described in Section 1 of this Order, each agency shall consider factors relevant to a proposal's effect on the survival and quality of the wetlands. Among these factors are:

(a) public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards, and sediment and erosion;

(b) maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and

(c) other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

Sec. 6. As allowed by law, agencies shall issue or amend their existing procedures in order to comply with this Order. To the extent possible, existing processes, such as those of the Council on Environmental Quality and the Water Resources Council, shall be utilized to fulfill the requirements of this Order.

Sec. 7. As used in this Order:

(a) The term "agency" shall have the same meaning as the term "Executive agency" in Section 105 of Title 5 of the United States Code and shall include the military departments; the directives contained in this Order, however, are meant to apply only to those agencies which perform the activities described in Section 1 which are located in or affecting wetlands.

(b) The term "new construction" shall include draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of this Order.

(c) The term "wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

Sec. 8. This Order does not apply to projects presently under construction, or to projects for

which all of the funds have been appropriated through fiscal Year 1977, or to projects and programs for which a draft or final environmental impact statement will be filed prior to October 1, 1977. The provisions of Section 2 of this Order shall be implemented by each agency not later than October 1, 1977.

Sec. 9. Nothing in this Order shall apply to assistance provided for emergency work, essential to save lives and protect property and public health and safety, performed pursuant to Sections 305 and 306 of the Disaster Relief Act of 1974 (88 Stat. 148, 42 U.S.C. 5145 and 5146).

Sec.10 To the extent the provisions of Sections 2 and 5 of this Order are applicable to projects covered by Section 104(h) of the Housing and Community Development Act of 1974, as amended (88 Stat. 640, 42 U.S.C. 5304(h)), the responsibilities under those provisions may be assumed by the appropriate applicant, if the applicant has also assumed, with respect to such projects, all of the responsibilities for environmental review, decision making, and action pursuant to the National Environmental Policy Act of 1969, as amended.

Jimmy Carter

The White House

May 24, 1977

Presidential Documents

Title 3—

Executive Order 13175 of November 6, 2000

The President

Consultation and Coordination With Indian Tribal Governments

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes; it is hereby ordered as follows:

Section 1. Definitions. For purposes of this order:

(a) “Policies that have tribal implications” refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

(b) “Indian tribe” means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) “Agency” means any authority of the United States that is an “agency” under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(d) “Tribal officials” means elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations.

Sec. 2. Fundamental Principles. In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles:

(a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes.

(b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.

(c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination.

Sec. 3. Policymaking Criteria. In addition to adhering to the fundamental principles set forth in section 2, agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have tribal implications:

(a) Agencies shall respect Indian tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

(b) With respect to Federal statutes and regulations administered by Indian tribal governments, the Federal Government shall grant Indian tribal governments the maximum administrative discretion possible.

(c) When undertaking to formulate and implement policies that have tribal implications, agencies shall:

(1) encourage Indian tribes to develop their own policies to achieve program objectives;

(2) where possible, defer to Indian tribes to establish standards; and

(3) in determining whether to establish Federal standards, consult with tribal officials as to the need for Federal standards and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian tribes.

Sec. 4. *Special Requirements for Legislative Proposals.* Agencies shall not submit to the Congress legislation that would be inconsistent with the policy-making criteria in Section 3.

Sec. 5. *Consultation.* (a) Each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Within 30 days after the effective date of this order, the head of each agency shall designate an official with principal responsibility for the agency's implementation of this order. Within 60 days of the effective date of this order, the designated official shall submit to the Office of Management and Budget (OMB) a description of the agency's consultation process.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute, unless:

(1) funds necessary to pay the direct costs incurred by the Indian tribal government or the tribe in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) consulted with tribal officials early in the process of developing the proposed regulation;

(B) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(C) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(c) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications and that preempts tribal law unless the agency, prior to the formal promulgation of the regulation,

(1) consulted with tribal officials early in the process of developing the proposed regulation;

(2) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the

need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(3) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(d) On issues relating to tribal self-government, tribal trust resources, or Indian tribal treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

Sec. 6. *Increasing Flexibility for Indian Tribal Waivers.*

(a) Agencies shall review the processes under which Indian tribes apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribe for a waiver of statutory or regulatory requirements in connection with any program administered by the agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency, or as otherwise provided by law or regulation. If the application for waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

Sec. 7. *Accountability.*

(a) In transmitting any draft final regulation that has tribal implications to OMB pursuant to Executive Order 12866 of September 30, 1993, each agency shall include a certification from the official designated to ensure compliance with this order stating that the requirements of this order have been met in a meaningful and timely manner.

(b) In transmitting proposed legislation that has tribal implications to OMB, each agency shall include a certification from the official designated to ensure compliance with this order that all relevant requirements of this order have been met.

(c) Within 180 days after the effective date of this order the Director of OMB and the Assistant to the President for Intergovernmental Affairs shall confer with tribal officials to ensure that this order is being properly and effectively implemented.

Sec. 8. *Independent Agencies.* Independent regulatory agencies are encouraged to comply with the provisions of this order.

Sec. 9. *General Provisions.* (a) This order shall supplement but not supersede the requirements contained in Executive Order 12866 (Regulatory Planning and Review), Executive Order 12988 (Civil Justice Reform), OMB Circular A-19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.

(b) This order shall complement the consultation and waiver provisions in sections 6 and 7 of Executive Order 13132 (Federalism).

(c) Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments) is revoked at the time this order takes effect.

(d) This order shall be effective 60 days after the date of this order.

Sec. 10. *Judicial Review.* This order is intended only to improve the internal management of the executive branch, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against the United States, its agencies, or any person.



THE WHITE HOUSE,
November 6, 2000.

[FR Doc. 00-29003

Filed 11-8-00; 8:45 am]

Billing code 3195-01-P

Presidential Documents

Title 3—

Executive Order 13045 of April 21, 1997

The President

Protection of Children From Environmental Health Risks and Safety Risks

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Policy.*

1-101. A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive, and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features; and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves. Therefore, to the extent permitted by law and appropriate, and consistent with the agency's mission, each Federal agency:

(a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and

(b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

1-102. Each independent regulatory agency is encouraged to participate in the implementation of this order and comply with its provisions.

Sec. 2. *Definitions.* The following definitions shall apply to this order.

2-201. "Federal agency" means any authority of the United States that is an agency under 44 U.S.C. 3502(1) other than those considered to be independent regulatory agencies under 44 U.S.C. 3502(5). For purposes of this order, "military departments," as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

2-202. "Covered regulatory action" means any substantive action in a rule-making, initiated after the date of this order or for which a Notice of Proposed Rulemaking is published 1 year after the date of this order, that is likely to result in a rule that may:

(a) be "economically significant" under Executive Order 12866 (a rule-making that has an annual effect on the economy of \$100 million or more or would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities); and

(b) concern an environmental health risk or safety risk that an agency has reason to believe may disproportionately affect children.

2-203. "Environmental health risks and safety risks" mean risks to health or to safety that are attributable to products or substances that the child is likely to come in contact with or ingest (such as the air we breathe, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to).

Sec. 3. *Task Force on Environmental Health Risks and Safety Risks to Children.*

3-301. There is hereby established the Task Force on Environmental Health Risks and Safety Risks to Children ("Task Force").

3-302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, the Council on Environmental Quality, and the Office of Management and Budget (OMB).

3-303. *Membership.* The Task Force shall be composed of the:

(a) Secretary of Health and Human Services, who shall serve as a Co-Chair of the Council;

(b) Administrator of the Environmental Protection Agency, who shall serve as a Co-Chair of the Council;

(c) Secretary of Education;

(d) Secretary of Labor;

(e) Attorney General;

(f) Secretary of Energy;

(g) Secretary of Housing and Urban Development;

(h) Secretary of Agriculture;

(i) Secretary of Transportation;

(j) Director of the Office of Management and Budget;

(k) Chair of the Council on Environmental Quality;

(l) Chair of the Consumer Product Safety Commission;

(m) Assistant to the President for Economic Policy;

(n) Assistant to the President for Domestic Policy;

(o) Assistant to the President and Director of the Office of Science and Technology Policy;

(p) Chair of the Council of Economic Advisers; and

(q) Such other officials of executive departments and agencies as the President may, from time to time, designate.

Members of the Task Force may delegate their responsibilities under this order to subordinates.

3-304. *Functions.* The Task Force shall recommend to the President Federal strategies for children's environmental health and safety, within the limits of the Administration's budget, to include the following elements:

(a) statements of principles, general policy, and targeted annual priorities to guide the Federal approach to achieving the goals of this order;

(b) a coordinated research agenda for the Federal Government, including steps to implement the review of research databases described in section 4 of this order;

(c) recommendations for appropriate partnerships among Federal, State, local, and tribal governments and the private, academic, and nonprofit sectors;

(d) proposals to enhance public outreach and communication to assist families in evaluating risks to children and in making informed consumer choices;

(e) an identification of high-priority initiatives that the Federal Government has undertaken or will undertake in advancing protection of children's environmental health and safety; and

(f) a statement regarding the desirability of new legislation to fulfill or promote the purposes of this order.

3-305. The Task Force shall prepare a biennial report on research, data, or other information that would enhance our ability to understand, analyze,

and respond to environmental health risks and safety risks to children. For purposes of this report, cabinet agencies and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs related to environmental health risks and safety risks to children that have arisen in the course of the agency's programs and activities. The Task Force shall incorporate agency submissions into its report and ensure that this report is publicly available and widely disseminated. The Office of Science and Technology Policy and the National Science and Technology Council shall ensure that this report is fully considered in establishing research priorities.

3-306. The Task Force shall exist for a period of 4 years from the first meeting. At least 6 months prior to the expiration of that period, the member agencies shall assess the need for continuation of the Task Force or its functions, and make appropriate recommendations to the President.

Sec. 4. *Research Coordination and Integration.*

4-401. Within 6 months of the date of this order, the Task Force shall develop or direct to be developed a review of existing and planned data resources and a proposed plan for ensuring that researchers and Federal research agencies have access to information on all research conducted or funded by the Federal Government that is related to adverse health risks in children resulting from exposure to environmental health risks or safety risks. The National Science and Technology Council shall review the plan.

4-402. The plan shall promote the sharing of information on academic and private research. It shall include recommendations to encourage that such data, to the extent permitted by law, is available to the public, the scientific and academic communities, and all Federal agencies.

Sec. 5. *Agency Environmental Health Risk or Safety Risk Regulations.*

5-501. For each covered regulatory action submitted to OMB's Office of Information and Regulatory Affairs (OIRA) for review pursuant to Executive Order 12866, the issuing agency shall provide to OIRA the following information developed as part of the agency's decisionmaking process, unless prohibited by law:

(a) an evaluation of the environmental health or safety effects of the planned regulation on children; and

(b) an explanation of why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

5-502. In emergency situations, or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall comply with the provisions of this section to the extent practicable. For those covered regulatory actions that are governed by a court-imposed or statutory deadline, the agency shall, to the extent practicable, schedule any rulemaking proceedings so as to permit sufficient time for completing the analysis required by this section.

5-503. The analysis required by this section may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.

Sec. 6. *Interagency Forum on Child and Family Statistics.*

6-601. The Director of the OMB ("Director") shall convene an Interagency Forum on Child and Family Statistics ("Forum"), which will include representatives from the appropriate Federal statistics and research agencies. The Forum shall produce an annual compendium ("Report") of the most important indicators of the well-being of the Nation's children.

6-602. The Forum shall determine the indicators to be included in each Report and identify the sources of data to be used for each indicator. The

Forum shall provide an ongoing review of Federal collection and dissemination of data on children and families, and shall make recommendations to improve the coverage and coordination of data collection and to reduce duplication and overlap.

6-603. The Report shall be published by the Forum in collaboration with the National Institute of Child Health and Human Development. The Forum shall present the first annual Report to the President, through the Director, by July 31, 1997. The Report shall be submitted annually thereafter, using the most recently available data.

Sec. 7. General Provisions.

7-701. This order is intended only for internal management of the executive branch. This order is not intended, and should not be construed to create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or its employees. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies, its officers, or any other person.

7-702. Executive Order 12606 of September 2, 1987 is revoked.

A handwritten signature in black ink, reading "William Clinton". The signature is written in a cursive, flowing style with a large, prominent "W" and "C".

THE WHITE HOUSE,
April 21, 1997.

[United States Code Annotated Constitution of the United States Annotated Article I. The Congress](#)

U.S.C.A. Const. Art. I § 10, cl. 3

Section 10, Clause 3. Duty on Tonnage, State Compacts, War

[Currenttness](#)

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

[Notes of Decisions \(117\)](#)

U.S.C.A. Const. Art. I § 10, cl. 3, USCA CONST Art. I § 10, cl. 3

Current through P.L. 116-91. Some statute sections may be more current, see credits for details.

End of Document

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PL 96–551, DECEMBER 19, 1980, 94 Stat 3233

UNITED STATES PUBLIC LAWS

96th Congress - Second Session

Convening January 3, 1980

DATA SUPPLIED BY THE U.S. DEPARTMENT OF JUSTICE. (SEE SCOPE)

Additions and Deletions are not identified in this document.

PL 96–551 (HR 8235)

DECEMBER 19, 1980

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.

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

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 distribution 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 and 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 multistate 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 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 provisions 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.

(h) "Project" means 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.

(i) "Environmental threshold carrying capacity" means an environmental standard necessary to maintain a significant scenic, recreational, educational, scientific or natural value of the region or to maintain public health and safety within the region. Such standards shall include but not be limited to standards for air quality, water quality, soil conservation, vegetation preservation and noise.

(j) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

(k) "Areas open to public use" means all of the areas within a structure housing gaming under a nonrestricted license except areas devoted to the private use of guests.

(l) "Areas devoted to private use of guests" means hotel rooms and hallways to serve hotel room areas, and any parking areas. A hallway serves hotel room areas if more than 50 percent of the areas on each side of the hallway are hotel rooms.

(m) "Nonrestricted license" means a gaming license which is not a restricted gaming license.

Article III.- Organization

(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

The governing body of the agency shall be constituted as follows:

(1) California delegation:

(A) One member appointed by each of the county boards of supervisors of the counties of El Dorado and Placer and one member appointed by the city council of the city of South Lake Tahoe. Any such member may be a member of the county board of supervisors or city council, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) Two members appointed by the Governor of California, one member appointed by the speaker of the assembly of California and one member appointed by the senate rules committee of the State of California. The members appointed pursuant to this subparagraph shall not be residents of the region and shall represent the public at large within the State of California.

(2) Nevada delegation:

(A) One member appointed by each of the boards of county commissioners of Douglas and Washoe Counties and one member appointed by the board of supervisors of Carson City. Any such member may be a member of the board of county commissioners or board of supervisors, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) One member appointed by the Governor of Nevada, the secretary of State of Nevada or his designee, and the director of the State department of conservation and natural resources of Nevada or his designee. Except for the secretary of State and the director of the State department of conservation and natural resources, the members or designees appointed pursuant to this subparagraph shall not be residents of the region. All members appointed pursuant to this subparagraph shall represent the public at large within the State of Nevada.

(C) One member appointed for a 1-year term by the six other members of the Nevada delegation. If at least four members of the Nevada delegation are unable to agree upon the selection of a seventh member within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body for that State the Governor of the State of Nevada shall make such an appointment. The member appointed pursuant to this subparagraph may, but is not required to, be a resident of the region within the State of Nevada.

(3) If any appointing authority under paragraph (1)(A), (1)(B), (2)(A) or (2)(B) fails to make such an appointment within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body, the Governor of the State in which the appointing authority is located shall make the appointment. The term of any member so appointed shall be 1 year.

(4) The position of any member of the governing body shall be deemed vacant if such a member is absent from three consecutive meetings of the governing body in any calendar year.

(5) Each member and employee of the agency shall disclose his economic interests in the region within 10 days after taking his seat on the governing board or being employed by the agency and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. As used in this paragraph, "economic interests" means:

(A) Any business entity operating in the region in which the member or employee has a direct or indirect investment worth more than \$1,000.

(B) Any real property located in the region in which the member or employee has a direct or indirect interest worth more than \$1,000.

(C) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating \$250 or more in value received by or promised to the member within the preceding 12 months; or

(D) Any business entity operating in the region in which the member or employee is a director, officer, partner, trustee, employee or holds any position of management. No member or employee of the agency shall make, or attempt to influence, an agency decision in which he knows or has reason to know he has an economic interest. Members and employees of the agency must disqualify themselves from making or participating in the making of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interests of the member or employee.

(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body which he represents in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this compact unless met in some other manner specifically provided, shall be paid by the agency out of its own funds.

(c) Except for the secretary of State and director of the State department of conservation and natural resources of Nevada and the member appointed pursuant to subdivision (a)(2)(C), the members of the governing body serve at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every 4 years. Members may be reappointed.

(d) The governing body of the agency shall meet at least monthly. All meetings shall be open to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date for its regular monthly meeting in such terms as "the first Monday of each month," and shall not change such date more often than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Notice of any special meeting, except an emergency meeting, shall be given by so publishing the date and place and posting an agenda at least 5 days prior to the meeting.

(e) The position of a member of the governing body shall be considered vacated upon his loss of any of the qualifications required for his appointment and in such event the appointing authority shall appoint a successor.

(f) The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be 2 years, and who may be reelected. If a vacancy occurs in either office, the governing body may fill such vacancy for the unexpired term.

(g) 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 procedures 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.

Whenever under the provisions of this compact or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any project, public or private, the agency shall take final action by vote, whether to approve, to require modification or to reject such project, within 180 days after the application for such project is accepted as complete by the agency in compliance with the agency's rules and regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If a final action by vote does not take place within 180 days, the applicant may bring an action in a court of competent jurisdiction to compel a vote unless he has agreed to an extension. This provision does not limit the right of any person to obtain judicial review of agency action under subdivision (h) of article VI. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations and procedures.

(h) An advisory planning commission shall be appointed by the agency. The commission shall include: The chief planning officers of Placer County, El Dorado County, and the city of South Lake Tahoe in California and of Douglas County, Washoe County and Carson City in Nevada, the executive officer of the Lahontan Regional Water Quality Control Board of the State of California, the executive officer of the Air Resources Board of the State of California, the director of the State department of conservation and natural resources of the State of Nevada, the administrator of the division of environmental protection in the State department of conservation and natural resources of the State of Nevada, the administrator of the Lake Tahoe Management Unit of the United States Forest Service, and at least four lay members with an equal number from each State, at least half of whom shall be residents of the region. Any official member may designate an alternate.

The term of office of each lay member of the advisory planning commission shall be 2 years. Members may be reappointed.

The position of each member of the advisory planning commission shall be considered vacated upon loss of any of the qualifications required for appointments, and in such an event the appointing authority shall appoint a successor.

The advisory planning commission shall elect from its own members a chairman and a vice chairman, whose terms of office shall be 2 years and who may be reelected. If a vacancy occurs in either office, the advisory planning commission shall fill such vacancy for the unexpired term.

A majority of the members of the advisory planning commission constitutes a quorum for the transaction of the business of the commission. A majority vote of the quorum present shall be required to take action with respect to any matter.

(i) The agency shall establish and maintain an office within the region, and for this purpose the agency may rent or own property and equipment. Every plan, ordinance and other record of the agency which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be open to inspection and copying during regular office hours.

(j) Each authority charged under this compact or by the law of either State with the duty of appointing a member of the governing body of the agency shall be certified copy of its resolution or other action notify the Secretary of State of its own State of the action taken.

Article IV.- Personnel

(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this compact or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency; and shall be regional and bistate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either State, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

Article V.-Planning

(1) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the planning commission after due notice shall hold at least one public hearing which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this subdivision shall be given at least 20 days prior to the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region.

The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment without referring it to the planning commission. If the governing body initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice as required in this subdivision.

If a request is made for the amendment of the regional plan by:

- (1) A political subdivision a part of whose territory would be affected by such amendment; or
- (2) The owner or lessee of real property which would be affected by such amendment,

the governing body shall complete its action on such amendment within 180 days after such request is accepted as complete according to standards which must be prescribed by ordinance of the agency.

(b) The agency shall develop, in cooperation with the States of California and Nevada, environmental threshold carrying capacities for the region. The agency should request the President's Council on Environmental Quality, the U.S. Forest Service

and other appropriate agencies to assist in developing such environmental threshold carrying capacities. Within 18 months after the effective date of the amendments to this compact, the agency shall adopt environmental threshold carrying capacities for the region.

(c) Within 1 year after the adoption of the environmental threshold carrying capacities for the region, the agency shall amend the regional plan so that, at a minimum, the plan and all of its elements, as implemented through agency ordinances, rules and regulations, achieves and maintains the adopted environmental threshold carrying capacities. Each element of the plan shall contain implementation provisions and time schedules for such implementation by ordinance. The planning commission and governing body shall continuously review and maintain the regional plan. The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region and a statement of the policies, standards and elements of the regional plan.

The regional plan shall be a single enforceable plan and includes all of the following correlated elements:

(1) A land-use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to an indication or allocation of maximum population densities and permitted uses.

(2) A transportation plan for the integrated development of a regional system of transportation, including but not limited to parkways, highways, transportation facilities, transit routes, waterways, navigation facilities, public transportation facilities, bicycle facilities, and appurtenant terminals and facilities for the movement of people and goods within the region. The goal of transportation planning shall be:

(A) To reduce dependency on the automobile by making more effective use of existing transportation modes and of public transit to move people and goods within the region; and

(B) To reduce to the extent feasible air pollution which is caused by motor vehicles.

Where increases in capacity are required, the agency shall give preference to providing such capacity through public transportation and public programs and projects related to transportation. The agency shall review and consider all existing transportation plans in preparing its regional transportation plan pursuant to this paragraph.

The plan shall provide for an appropriate transit system for the region.

The plan shall give consideration to:

(A) Completion of the Loop Road in the States of Nevada and California;

(B) Utilization of a light rail mass transit system in the South Shore area; and

(C) Utilization of a transit terminal in the Kingsbury Grade area.

Until the regional plan is revised, or a new transportation plan is adopted in accordance with this paragraph, the agency has no effective transportation plan.

(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

(4) A recreation plan for the development, utilization, and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, marinas, areas for skiing and other recreational facilities.

(5) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan.

In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the State, Federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region.

(d) The regional plan shall provide for attaining and maintaining Federal, State, or local air and water quality standards, whichever are strictest, in the respective portions of the region for which the standards are applicable.

The agency may, however, adopt air or water quality standards or control measures more stringent than the applicable State implementation plan or the applicable Federal, State, or local standards for the region, if it finds that such additional standards

or control measures are necessary to achieve the purposes of this compact. Each element of the regional plan, where applicable, shall, by ordinance, identify the means and time schedule by which air and water quality standards will be attained.

(e) Except for the Regional Transportation Plan of the California Tahoe Regional Planning Agency, the regional plan, ordinances, rules and regulations adopted by the California Tahoe Regional Planning Agency in effect on July 1, 1980, shall be the regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency for that portion of the Tahoe region located in the State of California. Such plan, ordinance, rule or regulation may be amended or repealed by the governing body of the agency. The plans, ordinances, rules and regulations of the Tahoe Regional Planning Agency that do not conflict with, or are not addressed by, the California Tahoe Regional Planning Agency's plans, ordinances, rules and regulations referred to in this subdivision shall continue to be applicable unless amended or repealed by the governing body of the agency. No provision of the regional plan, ordinances, rules and regulations of the California Tahoe Regional Planning Agency referred to in this subdivision shall apply to that portion of the region within the State of Nevada, unless such provision is adopted for the Nevada portion of the region by the governing body of the agency.

(f) The regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency apply to that portion of the region within the State of Nevada.

(g) The agency shall adopt ordinances prescribing specific written findings that the agency must make prior to approving any project in the region. These findings shall relate to environmental protection and 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.

(h) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the regional plan, in a form suitable to assure a consistent view of developmental trends and other relevant information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

(i) Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of State and Federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private persons.

Article VI.- Agency's Powers

(a) The governing body shall adopt all necessary ordinances, rules, and regulations to effectuate the adopted regional plan. Except as otherwise provided in this compact, every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the region. Any political subdivision or public agency may adopt and enforce an equal or higher requirement applicable to the same subject of regulation in its territory. The regulations of the agency shall contain standards including but not limited to the following: Water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers, harbors, breakwaters or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile-home parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the regional plan, the 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.

The agency shall prescribe by ordinance those activities which it has determined will not have substantial effect on the land, water, air, space or any other natural resources in the region and therefore will be exempt from its review and approval.

Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is general throughout the region. Except an ordinance adopting or amending the regional plan, no ordinance shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

(b) 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. The agency may approve a project in the region only after making the written findings required by this subdivision or subdivision (g) of article V. Such findings shall be based on substantial evidence in the record.

Before adoption by the agency of the ordinances required in subdivision (g) of article V, the agency may approve a project in the region only after making written findings on the basis of substantial evidence in the record that the project is consistent with the regional plan then in effect and with applicable plans, ordinances, regulations, and standards of Federal and State agencies relating to the protection, maintenance and enhancement of environmental quality in the region.

(c) The legislatures of the States of California and Nevada find that in order to make effective the regional plan as revised by the agency, it is necessary to halt temporarily works of development in the region which might otherwise absorb the entire capability of the region for further development or direct it out of harmony with the ultimate plan. Subject to the limitation provided in this subdivision, from the effective date of the amendments to this compact until the regional plan is amended pursuant to subdivision (c) of article V, or until May 1, 1983, whichever is earlier:

(1) Except as otherwise provided in this paragraph, no new subdivision, planned unit development, or condominium project may be approved unless a complete tentative map or plan has been approved before the effective date of the amendments to this compact by all agencies having jurisdiction. The subdivision of land owned by a general improvement district, which existed and owned the land before the effective date of the amendments to this compact, may be approved if subdivision of the land is necessary to avoid insolvency of the district.

(2) Except as provided in paragraph (3), no apartment building may be erected unless the required permits for such building have been secured from all agencies having jurisdiction, prior to the effective date of the amendments to this compact.

(3) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize the construction of a greater number of new residential units within the region than were authorized within the region by building permits issued by that city or county during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the construction of no more than one-third of that number may be issued by each such city or county. For purposes of this paragraph a “residential unit” means either a single family residence or an individual residential unit within a larger building, such as an apartment building, a duplex or a condominium.

The legislatures find the respective numbers of residential units authorized within the region during the calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined)

252

2. Placer County

278

3. Carson City

0

4. Douglas County

339

5. Washoe County

739

(4) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize construction of a greater square footage of new commercial buildings within the region than were authorized within the region by building permits for commercial purposes issued by that city or county during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the construction of no more than one-third the amount of that square footage may be issued by each such city or county.

The legislatures find the respective square footages of commercial buildings authorized within the region during calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined)	64,324
2. Placer County	23,000
3. Carson City	0
4. Douglas County	57,354
5. Washoe County	50,600

(5) No structure may be erected to house gaming under a nonrestricted license.

(6) No facility for the treatment of sewage may be constructed or enlarged except:

(A) To comply, as ordered by the appropriate State agency for the control of water pollution, with existing limitations of effluent under the Clean Water Act, 33 U.S.C. section 1251 et seq., and the applicable State law for control of water pollution;

(B) To accommodate development which is not prohibited or limited by this subdivision; or

(C) In the case of Douglas County Sewer District #1, to modify or otherwise alter sewage treatment facilities existing on the effective date of the amendments to this compact so that such facilities will be able to treat the total volume of effluent for which they were originally designed, which is 3.0 million gallons per day. Such modification or alteration is not a “project”; is not subject to the requirements of article VII; and does not require a permit from the agency. Before commencing such modification or alteration, however, the district shall submit to the agency its report identifying any significant soil erosion problems which may be caused by such modifications or alterations and the measures which the district proposes to take to mitigate or avoid such problems.

The moratorium imposed by this subdivision does not apply to work done pursuant to a right vested before the effective date of the amendments to this compact. Notwithstanding the expiration date of the moratorium imposed by this subdivision, no new highway may be built or existing highway widened to accommodate additional continuous lanes for automobiles until the regional transportation plan is revised and adopted.

The moratorium imposed by this subdivision does not apply to the construction of any parking garage which has been approved by the agency prior to May 4, 1979, whether that approval was affirmative or by default. The provisions of this paragraph are not an expression of legislative intent that any such parking garage, the approval of which is the subject of litigation which was pending on the effective date of the amendments to this compact, should or should not be constructed. The provisions of this paragraph are intended solely to permit construction of such a parking garage if a judgment sustaining the agency's approval to construct that parking garage has become final and no appeal is pending or may lawfully be taken to a higher court.

(d) Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an approval by the Tahoe Regional Planning Agency, whether that approval was affirmative or by default, if that litigation was pending on May 4, 1979, the agency and the States of California and Nevada shall recognize as a permitted and conforming use:

(1) Every structure housing gaming under a nonrestricted license which existed as a licensed gaming establishment on May 4, 1979, or whose construction was approved by the Tahoe Regional Planning Agency affirmatively or deemed approved before that date. The construction or use of any structure to house gaming under a nonrestricted license not so existing or approved, or the enlargement in cubic volume of any such existing or approved structure is prohibited.

(2) Every other nonrestricted gaming establishment whose use was seasonal and whose license was issued before May 4, 1979, for the same season and for the number and type of games and slot machines on which taxes or fees were paid in the calendar year 1978.

(3) Gaming conducted pursuant to a restricted gaming license issued before May 4, 1979, to the extent permitted by that license on that date.

The area within any structure housing gaming under a nonrestricted license which may be open to public use (as distinct from that devoted to the private use of guests and exclusive of any parking area) is limited to the area existing or approved for public use on May 4, 1979. Within these limits, any external modification of the structure which requires a permit from a local government also requires approval from the agency. The agency shall not permit restaurants, convention facilities, showrooms or other public areas to be constructed elsewhere in the region outside the structure in order to replace areas existing or approved for public use on May 4, 1979.

(e) Any structure housing licensed gaming may be rebuilt or replaced to a size not to exceed the cubic volume, height and land coverage existing or approved on May 4, 1979, without the review or approval of the agency or any planning or regulatory authority of the State of Nevada whose review or approval would be required for a new structure.

(f) The following provisions apply to any internal or external modification, remodeling, change in use, or repair of a structure housing gaming under a nonrestricted license which is not prohibited by article VI(d):

(1) The agency's review of an external modification of the structure which requires a permit from a local government is limited to determining whether the external modification will do any of the following:

(A) Enlarge the cubic volume of the structure;

(B) Increase the total square footage of area open to one approved for public use on May 4, 1979;

(C) Convert an area devoted to the private use of guests to an area open to public use;

(D) Increase the public area open to public use which is used for gaming beyond the limits contained in paragraph (3); and

(E) Conflict with or be subject to the provisions of any of the agency's ordinances that are generally applicable throughout the region. The agency shall make this determination within 60 days after the proposal is delivered to the agency in compliance with the agency's rules or regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If an external modification is determined to have any of the effects enumerated in subparagraphs (A) through (C), it is prohibited. If an external modification is determined to have any of the effects enumerated in subparagraph (D) or (E), it is subject to the applicable provisions of this compact. If an external modification is determined to have no such effect, it is not subject to the provisions of this compact.

(2) Except as provided in paragraph (3), internal modification, remodeling, change in use or repair of a structure housing gaming under a nonrestricted license is not a project and does not require the review or approval of the agency.

(3) Internal modification, remodeling, change in use or repair of areas open to public use within a structure housing gaming under a nonrestricted license which alone or in combination with any other such modification, remodeling, change in use or repair will increase the total portion of those areas which is actually used for gaming by more than the product of the total base area, as defined below, in square feet existing on or approved before August 4, 1980, multiplied by 15 percent constitutes a project and is subject to all of the provisions of this compact relating to projects. For purposes of this paragraph and the determination required by article VI(g), base area means all of the area within a structure housing gaming under a nonrestricted license which may be open to public use, whether or not gaming is actually conducted or carried on in that area, except retail stores, convention centers and meeting rooms, administrative offices, kitchens, maintenance and storage areas, rest rooms, engineering and mechanical rooms, accounting rooms and counting rooms.

(g) In order to administer and enforce the provisions of paragraphs (d), (e) and (f), the State of Nevada, through its appropriate planning or regulatory agency, shall require the owner or licensee of a structure housing gaming under a nonrestricted license to provide:

(1) Documents containing sufficient information for the Nevada agency to establish the following relative to the structure:

(A) The location of its external walls;

(B) Its total cubic volume;

(C) Within its external walls, the area in square feet open or approved for public use and the area in square feet devoted to or approved for the private use of guests on May 4, 1979;

(D) The amount of surface area of land under the structure; and

(E) The base area as defined in paragraph (f)(3) in square feet existing on or approved before August 4, 1980.

(2) An informational report whenever any internal modification, remodeling, change in use, or repair will increase the total portion of the areas open to public use which is used for gaming.

The Nevada agency shall transmit this information to the Tahoe Regional Planning Agency.

(h) Gaming conducted pursuant to a restricted gaming license is exempt from review by the agency if it is incidental to the primary use of the premises.

(i) The provisions of subdivisions (d) and (e) are intended only to limit gaming and related activities as conducted within a gaming establishment, or construction designed to permit the enlargement of such activities, and not to limit any other use of property zoned for commercial use or the accommodation of tourists, as approved by the agency.

(j) Legal actions arising out of or alleging a violation of the provisions of this compact, of the regional plan or of an ordinance or regulation of the agency or of a permit or a condition of a permit issued by the agency are governed by the following provisions:

(1) This subdivision applies to:

(A) Actions arising out of activities directly undertaken by the agency.

(B) Actions arising out of the issuance to a person of a lease, permit, license or other entitlement for use by the agency.

(C) Actions arising out of any other act or failure to act by any person or public agency. Such legal actions may be filed and the provisions of this subdivision apply equally in the appropriate courts of California and Nevada and of the United States.

(2) Venue lies:

(A) If a civil or criminal action challenges an activity by the agency or any person which is undertaken or to be undertaken upon a parcel of real property, in the State or Federal judicial district where the real property is situated.

(B) If an action challenges an activity which does not involve a specific parcel of land (such as an action challenging an ordinance of the agency), in any State or Federal court having jurisdiction within the region.

(3) Any aggrieved person may file an action in an appropriate court of the States of California or Nevada or of the United States alleging noncompliance with the provisions of this compact or with an ordinance or regulation of the agency. In the case of governmental agencies, "aggrieved person" means the Tahoe Regional Planning Agency or any State, Federal or local agency. In the case of any person other than a governmental agency who challenges an action of the Tahoe Regional Planning Agency, "aggrieved person" means any person who has appeared, either in person, through an authorized representative, or in writing, before the agency at an appropriate administrative hearing to register objection to the action which is being challenged, or who had good cause for not making such an appearance.

(4) A legal action arising out of the adoption or amendment of the regional plan or of any ordinance or regulation of the agency, or out of the granting or denial of any permit, shall be commenced within 60 days after final action by the agency. All other legal actions shall be commenced within 65 days after discovery of the cause of action.

(5) In any legal action filed pursuant to this subdivision which challenges an adjudicatory act or decision of the agency to approve or disapprove a project, the scope of judicial inquiry shall extend only to whether there was prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law or if the act or decision of the agency was not supported by substantial evidence in light of the whole record. In making such a determination the court shall not exercise its independent judgment on evidence but shall only determine whether the act or decision was supported by substantial evidence in light of the whole record. In any legal action filed pursuant to this subdivision which challenges a legislative act or decision of the agency (such as the adoption of the regional plan and the enactment of implementing ordinances), the scope of the judicial inquiry shall extend only to the questions of whether the act or decision has been arbitrary, capricious or lacking substantial evidentiary support or whether the agency has failed to proceed in a manner required by law.

(6) The provisions of this subdivision do not apply to any legal proceeding pending on the date when this subdivision becomes effective. Any such legal proceeding shall be conducted and concluded under the provisions of law which were applicable prior to the effective date of this subdivision.

(7) The security required for the issuance of a temporary restraining order or preliminary injunction based upon an alleged violation of this compact or any ordinance, plan, rule or regulation adopted pursuant thereto is governed by the rule or statute applicable to the court in which the action is brought, unless the action is brought by a public agency or political subdivision to enforce its own rules, regulations and ordinances in which case no security shall be required.

(k) The agency shall monitor activities in the region and may bring enforcement actions in the region to insure compliance with the regional plan and adopted ordinances, rules, regulations and policies. If it is found that the regional plan, or ordinances, rules, regulations and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to insure compliance.

(l) Any person who violates any provision of this compact or of any ordinance or regulation of the agency or of any condition of approval imposed by the agency is subject to a civil penalty not to exceed \$5,000. Any such person is subject to an additional civil penalty not to exceed \$5,000 per day, for each day on which such 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.

(m) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by State or Federal law.

(n) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

(o) Every record of the agency, whether public or not, shall be open for examination to the legislature and controller of the State of California and the legislative auditor of the State of Nevada.

(p) Approval by the agency of any project expires 3 years after the date of final action by the agency or the effective date of the amendments to this compact, whichever is late, unless construction is begun within that time and diligently pursued thereafter, or the use or activity has commenced. In computing the 3-year period any period of time during which the project is the subject of a legal action which delays or renders impossible the diligent pursuit of that project shall not be counted. Any license, permit or certificate issued by the agency which has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this subdivision.

(q) The governing body shall maintain a current list of real property known to be available for exchange with the United States or with other owners of real property in order to facilitate exchanges of real property by owners of real property in the region.

Article VII.- Environmental Impact Statements

(a) The Tahoe Regional Planning Agency when acting upon matters that have a significant effect on the environment shall:

(1) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(2) Prepare and consider a detailed environmental impact statement before deciding to approve or carry out any project. The detailed environmental impact statement shall include the following:

(A) The significant environmental impacts of the proposed project;

(B) Any significant adverse environmental effects which cannot be avoided should the project be implemented;

(C) Alternatives to the proposed project;

(D) Mitigation measures which must be implemented to assure meeting standards of the region;

(E) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(F) Any significant irreversible and irretrievable commitments of resources which would be involved in the proposed project should it be implemented; and

(G) The growth-inducing impact of the proposed project;

(3) Study, develop and describe appropriate alternatives to recommended courses of action for any project which involves unresolved conflicts concerning alternative uses of available resources;

(4) Make available to States, counties, municipalities, institutions and individuals, advice and information useful in restoring, maintaining and enhancing the quality of the region's environment; and

(5) Initiate and utilize ecological information in the planning and development of resource-oriented projects.

(b) Prior to completing an environmental impact statement, the agency shall consult with and obtain the comments of any Federal, State or local agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State and local agencies which are authorized to develop and enforce environmental standards shall be made available to the public and shall accompany the

project through the review processes. The public shall be consulted during the environmental impact statement process and views shall be solicited during a public comment period not to be less than 60 days.

(c) Any environmental impact statement required pursuant to this article need not repeat in its entirety any information or data which is relevant to such a statement and is a matter of public record or is generally available to the public, such as information contained in an environmental impact report prepared pursuant to the California Environmental Quality Act or a Federal environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969. // 42 USC 4321 // However, such information or data shall be briefly described in the environmental impact statement and its relationship to the environmental impact statement shall be indicated.

In addition, any person may submit information relative to a proposed project which may be included, in whole or in part, in any environmental impact statement required by this article.

(d) In addition to the written findings specified by agency ordinance to implement the regional plan, the agency shall make either of the following written findings before approving a project for which an environmental impact statement was prepared:

- (1) Changes or alterations have been required in or incorporated into such project which avoid or reduce the significant adverse environmental effects to a less than significant level; or
- (2) Specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project.

A separate written finding shall be made for each significant effect identified in the environmental impact statement on the project. All written findings must be supported by substantial evidence in the record.

(e) The agency may charge and collect a reasonable fee from any person proposing a project subject to the provisions of this compact in order to recover the estimated costs incurred by the agency in preparing an environmental impact statement under this article.

(f) The agency shall adopt by ordinance a list of classes of projects which the agency has determined will not have a significant effect on the environment and therefore will be exempt from the requirement for the preparation of an environmental impact statement under this article. Prior to adopting the list, the agency shall make a written finding supported by substantial evidence in the record that each class of projects will not have a significant effect on the environment.

Article VIII.- Finances

(a) On or before September 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of the following year. The agency shall apportion \$75,000 of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. In addition, each county within the region in California shall pay \$18,750 to the agency and each county within the region in Nevada, including Carson City, shall pay \$12,500 to the agency, from any funds available therefor. The State of California and the State of Nevada may pay to the agency by July 1 of each year any additional sums necessary to support the operations of the agency pursuant to this compact. If additional funds are required, the agency shall make a request for the funds to the States of California and Nevada. Requests for State funds must be apportioned two-thirds from California and one-third from Nevada. Money appropriated shall be paid within 30 days.

(b) The agency may fix and collect reasonable fees for any services rendered by it.

(c) The agency shall submit an itemized budget to the States for review with any request for State funds, shall be strictly accountable to any county in the region and the States for all funds paid by them to the agency and shall be strictly accountable to all participating bodies for all receipts and disbursement.

(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds; but the agency may not own land except as provided in subdivision (i) of article III.

(e) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties and the States for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party States or any political subdivision thereof.

Article IX.- Transportation District

- (a) The Tahoe transportation district is hereby established as a special purpose district. The boundaries of the district are coterminous with those of the region.
- (b) The business of the district shall be managed by a board of directors consisting of:
- (1) One member of the county board of supervisors of each of the counties of El Dorado and Placer;
 - (2) One member of the city council of the city of South Lake Tahoe;
 - (3) One member each of the board of county commissioners of Douglas County and of Washoe County;
 - (4) One member of the board of supervisors of Carson City;
 - (5) The director of the California Department of Transportation; and
 - (6) The director of the department of transportation of the State of Nevada.

Any director may designate an alternate.

(c) The vote of at least five of the directors must agree to take action. If at least five votes in favor of an action are not cast, an action of rejection shall be deemed to have been taken.

(d) The Tahoe transportation district may in accordance with the adopted transportation plan:

- (1) Own and operate a public transportation system to the exclusion of all other publicly owned transportation systems in the region.
- (2) Acquire upon mutually agreeable terms any public transportation system or facility owned by a county, city or special purpose district within the region.
- (3) Hire the employees of existing public transportation systems that are acquired by the district without loss of benefits to the employees, bargain collectively with employee organizations, and extend pension and other collateral benefits to employees.
- (4) Fix the rates and charges for transit services provided pursuant to this subdivision.
- (5) Issue revenue bonds and other evidence of indebtedness.
- (6) By resolution, determine and propose for adoption a tax for the purpose of obtaining services of the district. The tax proposed must be general and of uniform operation throughout the region, and may not be graduated in any way. The district is prohibited from imposing an ad valorem tax, a tax measured by gross or net receipts on business, a tax or charge that is assessed against people or vehicles as they enter or leave the region, and any tax, direct or indirect, on gaming tables and devices.

Any such proposition must be submitted to the voters of the district and shall become effective upon approval of two-thirds of the voters voting on the proposition. The revenues from any such tax must be used for the service for which it was imposed, and for no other purpose.

- (7) Provide service from inside the region to convenient airport, railroad and interstate bus terminals without regard to the boundaries of the region.
- (e) The legislatures of the States of California and Nevada may, by substantively identical enactments, amend this article.

Article X.—Miscellaneous

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in subdivision (c), the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating State or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the remaining State and in full force and effect as to the State affected as to all severable matters.

(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the legislature of either State concurred in by the legislature of the other.

(c) A State party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other State and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

(d) No provision of this compact shall have any effect upon the allocation, distribution or storage or interstate waters or upon any appropriative water right.

Sec. 2. The Secretary of Agriculture and the heads of other appropriate agencies are authorized, upon the request of the Tahoe Regional Planning Agency, to cooperate with the Tahoe Regional Planning Agency in all respects compatible with carrying out the normal duties of their agencies.

Sec. 3. The consent to the compact by the United States is subject to the condition that the President may appoint a nonvoting representative of the United States to the governing body of the Tahoe Regional Planning Agency.

Sec. 4. Any additional powers conferred on the agency pursuant to article X, section 1(b) of the compact shall not be exercised unless consented to by the Congress.

Sec. 5. Nothing contained in this Act or in the compact consented to shall in any way affect the powers, rights, or obligations of the United States, or the applicability of any law or regulation of the United States in, over or to the region or waters which are the subject of the compact, or in any way affect rights owned or held by or for Indians or Indian tribes subject to the jurisdiction of the United States.

Sec. 6. The right is hereby reserved by the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by or concerning the Tahoe Regional Planning Agency as is deemed appropriate by the Congress or such committee.

Sec. 7. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved December 19, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):

Dec. 1, considered and passed House.

Dec. 3, considered and passed Senate.

PL 96–551, 1980 HR 8235

PL 96-586, DECEMBER 23, 1980, 94 Stat 3381

UNITED STATES PUBLIC LAWS

96th Congress - Second Session

Convening January 3, 1980

DATA SUPPLIED BY THE U.S. DEPARTMENT OF JUSTICE. (SEE SCOPE)

Additions and Deletions are not identified in this document.

PL 96-586 (HR 7306)

DECEMBER 23, 1980

An Act to provide for the orderly disposal of certain Federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. (a) The Congress finds that—

- (1) the Bureau of Land Management has extensive land ownership in small parcels interspersed with or adjacent to private lands in urban areas of Clark County, Nevada;
- (2) for orderly development of the communities in that county certain of those lands should be sold by the Federal Government;
- (3) the Lake Tahoe Basin is a closed basin two-thirds of which is located within the State of California and one-third within the State of Nevada;
- (4) the environmental quality of the Lake Tahoe Basin is seriously jeopardized by overdevelopment of sensitive land areas;
- (5) a majority of the acreage developed within the Lake Tahoe Basin and the potential for further development of sensitive land areas is within California;
- (6) further tourist oriented development within the basin encourages significant permanent development of other kinds as well as tourist visitation; and
- (7) the unique character of the Lake Tahoe Basin is of national significance deserving of further protection and management.

(b) The purpose of this Act is to provide for the orderly disposal of Federal lands in Clark County, Nevada, and to provide for acquisition of environmentally sensitive lands in the Lake Tahoe Basin.

Sec. 2. (a) The Secretary of the Interior (hereinafter in this Act referred to as the “Secretary”) is authorized and directed to dispose of lands under the jurisdiction of the Bureau of Land Management in Clark County, Nevada, as shown on the map numbered 7306 A, dated May 1980, and entitled “Las Vegas Valley, Nevada, Land Sales Map”, which map shall be on file and available for public inspection in the offices of the Bureau of Land Management. Such disposal shall be in accordance with regulations developed jointly by the Secretary and the affected local governmental jurisdictions and shall be consistent with the provisions of the Federal Land Policy and Management Act // 43 USC 1701 // and other applicable law except to the extent necessary to expeditiously carry out the provisions of this Act.

(b) No more than seven hundred acres per calendar year may be offered for sale by the Bureau of Land Management in Clark County.

(c) Notwithstanding section 1(b), the Secretary and the affected local governmental jurisdictions shall jointly select lands to be offered for sale under this Act. The Secretary may not offer any land for sale if in his judgment such land has not been appropriately classified in accordance with adjacent land use by the local governmental jurisdiction. In the event agreement cannot be reached on joint selection, no lands shall be offered for sale.

(d)(1) Except as otherwise provided in this subsection, the revenues from the sale of public lands under this subsection within Clark County, Nevada, shall, notwithstanding any other provision of law, be deposited annually, in the general fund of the Treasury of the United States: Provided, That from these revenues, an amount equal to that actually appropriated from the Land and Water Conservation Fund pursuant to section 3 of this Act, shall be deposited in the Fund prior to fiscal year 1995.

(2) Five per centum of the annual revenues referred to in paragraph (1) shall be returned to the State of Nevada annually for use in the general education program of the State.

(3) Ten per centum of the net annual revenues referred to in paragraph (1) shall be returned annually directly to the county or municipality within the boundaries of which such land sale occurred to be used for the purpose of acquisition and development of recreational lands and facilities. The total annual revenue returned under this paragraph to each such county or municipality shall be an amount proportional to the amount of revenues generated under this section from sales under this section of Federal land located within each such county or municipality.

(e) The revenues deposited in the general fund of the Treasury of the United States under subsection (d) are deemed to be in the nature of repayment for those authorizations set forth in section 3 of this Act. The Secretary, in cooperation with the Secretary of Agriculture, shall submit an accounting report biannually of income and expenditure provided for by this Act to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

(f) The Secretary shall, subject to the provisions of subsection (c), make the first land sale offering of Clark County, Nevada, land no later than one year after the date of enactment of this Act.

(g)(1) The Secretary of Agriculture is authorized and directed to make annual payments to the governing bodies of each of the political subdivisions any portion of which is located in the area depicted on the final map filed pursuant to section 3(a). Such payments may be used only for water pollution control, soil erosion mitigation, or acquisition by local government authorities of lands and interests in lands within the Lake Tahoe Basin, or for any combination of the foregoing purposes.

(2) The total amounts appropriated for payments pursuant to this subsection shall be allocated proportionately among such political subdivisions in any fiscal year on the basis of the relative amounts of acreage acquired under this Act in each such political subdivision.

(3) In addition to the amounts authorized to be appropriated to carry out the provisions of section 3 of this Act, there is authorized to be appropriated for making payments under this subsection a sum equal to 15 per centum of the amount appropriated under such section 3.

(h) In addition to the amounts authorized to be appropriated to carry out the provisions of section 3 of this Act, there is authorized to be appropriated a sum equal to 5 per centum of the amount appropriated under such section 3 to be used by the Secretary of Agriculture only for purposes of preventing, controlling, or mitigating water pollution associated with National Forest System lands in the Lake Tahoe Basin and for managing acquired lands within the Lake Tahoe Basin. Such sum shall be in addition to any other amounts available to the Secretary of Agriculture for expenditure in the Lake Tahoe Basin.

(i) The provisions of section 3 of the Act of October 20, 1976 (31 U.S.C. 1601) and the provisions of subsections (a) through (c) of section 106 of the Act of March 27, 1978 (16 U.S.C. 790) shall apply to lands acquired by the Secretary of Agriculture under this Act in the same manner and to the same extent as such provisions apply to lands owned by the United States and referred to in such section 106. For purposes of applying such provisions, any reference in such provisions to the lands referred to in such section 106 or to the National Park System shall be treated as including reference to the lands acquired by the Secretary of Agriculture under this Act.

Sec. 3. (a)(1) The Secretary of Agriculture is authorized to acquire by donation, purchase with donated or appropriated funds, or otherwise, lands and interests in lands which were unimproved as of the date of enactment of this Act (except as provided in subsection (c)), and which are environmentally sensitive lands within the meaning of paragraph (2). The funds used for acquisition of such lands and interests in lands shall be the funds authorized to be appropriated pursuant to this Act, and no such funds may be expended until the final map has been filed in accordance with paragraph (2)(B). Such funds shall be in addition to any other amounts available to the Secretary of Agriculture for expenditure in the Lake Tahoe Basin.

(2)(A) The Secretary of Agriculture, in consultation with the governments of Nevada and California, the Tahoe Regional Planning Agency and with local governments, including the appropriate planning and regulatory agencies, after notice and opportunity for public hearing, shall prepare a map of the lands to be acquired pursuant to this subsection.

(B) The Secretary of Agriculture shall, within six months of the date of enactment of this Act, and after notice and opportunity for public hearing, file with the United States Senate Committee on Energy and Natural Resources and the United States House of Representatives Committee on Interior and Insular Affairs a map which in the Secretary of Agriculture's judgment best achieves the objectives set forth in this Act and includes the environmentally sensitive land defined in subparagraph (C) of this paragraph.

(C) For purposes of this paragraph, the term "environmentally sensitive land" means—

(i) stream environment zones which are—

(I) areas generally located within the one-hundred-year flood plain;

(II) areas containing soils which are associated with high runoff or high water tables;

(III) areas of riparian vegetation types; or

(IV) minimum protective buffer areas for the areas referred to in subclauses (I) through (III);

(ii) high hazard lands which are characterized by steep slopes and a fragile environmental balance or with a high erosion potential;

(iii) unimproved lands previously modified by man which are causing unacceptably high rates of sedimentation; and

(iv) shore zone areas which are sensitive to cliff erosion, beach erosion, and near-shore instability.

(D) The map filed pursuant to subparagraph (B) shall be prepared at such scale as to clearly identify the affected land tracts by ownership and shall designate such tracts for acquisition or nonacquisition.

(3) Before initiating acquisition proceedings for any lands under this subsection, the Secretary shall consult annually with State and local government agencies, the Tahoe Regional Planning Agency as to the necessity for such acquisition, the potential impacts on State and local government, and other appropriate aspects of the acquisition. The Secretary of Agriculture shall notify the public of the approved land acquisition program on an annual basis.

(4) Lands within the boundaries of the area subject to acquisition under this section which are owned by any State or local government may be acquired only by donation.

(b) Lands acquired under this section shall be administered as a part of the United States National Forest System; except that the Secretary of Agriculture, acting through the Chief of the Forest Service, may, in the case of lands which are unsuitable for Forest Service Administration, transfer such lands or interests therein to an appropriate unit of State or local government with appropriate deed restrictions to protect the environmental quality and public recreational use of the lands concerned.

(c)(1) Except as provided in paragraph (2), with respect to that portion of the Lake Tahoe Basin, as defined as of the date of the enactment of this Act by the Secretary of Agriculture, which lies within the boundary of the State of California, as in effect on the date of the establishment of the Tahoe National Forest (October 3, 1905), the Secretary of Agriculture may acquire improved lands or interests in improved lands with the consent of the owner thereof or upon a finding by the Secretary of Agriculture that such lands are being used, or that an imminent threat exists that they will be used, in a manner detrimental to the preservation of the existing water quality of the basin.

(2) No single family dwelling which is improved land (as defined in this subsection) may be acquired under the provisions of this subsection without the consent of the owner thereof unless the Secretary of Agriculture with the concurrence of the Tahoe Regional Planning Agency finds that (A) a change in the use of such dwelling has occurred subsequent to the date of enactment of this Act or that such a change in use is threatened, and (B) in the case of a single family dwelling having a change or threatened change in use but maintained as a single family dwelling, such change or threatened change will result in a detriment to the preservation of the existing water quality of the basin.

(3) At such time as the Tahoe Regional Planning Agency has adopted final requirements for the protection of the water quality of the basin, the Secretary of Agriculture shall make the findings provided for in sections 3(c)(1) and 3(c)(2) herein in a manner consistent with such requirements.

(4) For purposes of this Act, the term—

(A) "improved land" means any land on which there is located a single family dwelling or other residential or commercial building, the construction of which commenced before the date of enactment of this Act, together with so much of the land on which such building is located as is reasonably necessary to the use and enjoyment of such building; and

(B) "unimproved land" means any land other than improved land.

(5)(A) The owner or owners of any improved land acquired by the Secretary of Agriculture under this Act may retain a right of use and occupancy of such land for—

- (i) a definite term of not more than twenty-five years from the date of the enactment of this Act, or,
- (ii) a term ending at the death of the owner or owners of such land.

The owner shall elect the term to be reserved, except that if the owner is a corporation, the term shall not exceed twenty-five years from the date of the enactment of this Act. Unless the improved land is wholly or partially donated, the Secretary of Agriculture shall pay to the owner the fair market value of the improved land on the date of its acquisition, less the fair market value on that date of the right retained by the owner. For purposes of applying the preceding provisions of this subparagraph, ownership shall be determined as of the date of acquisition, except that in applying clause (ii) ownership shall be determined as of May 1, 1980.

(B) A right retained by the owner pursuant to this paragraph shall be subject to termination by the Secretary of Agriculture upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary of Agriculture to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(d) Lands and interests therein may be acquired by the Secretary of Agriculture with concurrence of the Tahoe Regional Planning Agency in accordance with this section without the consent of the owner thereof only where, in his judgment, all reasonable efforts to acquire such lands or interests therein by negotiation have failed.

(e) The fair market value of any land or interest in land to be acquired by the Secretary of Agriculture under this section shall be determined by an independent appraisal made, where practicable, on the basis of comparable sales at the time of such acquisition. For purposes of the appraisal of any property to be acquired under this section, in determining the comparability of other property sales, the independent appraisal shall take into account the utilities, services, and facilities associated with the property concerned. Any change after the date of the enactment of this Act in the value of any property to be acquired under this section shall not be taken into account for purposes of determining the fair market value of such property to the extent that such change is attributable to the enactment of this Act.

(f) In acquiring any property under this section, the Secretary of Agriculture and the owner of the property to be acquired may agree that the purchase price will be paid in periodic installments over a period that does not exceed ten years, with interest on the unpaid principal balance thereof at a rate which is not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining period of maturity comparable to average maturities on the installments.

(g) There is hereby authorized to be appropriated, for the purposes of this Act, from the Land and Water Conservation Fund, \$10,000,000 for the fiscal year 1982, and \$20,000,000 for the fiscal year 1983. In addition there is hereby authorized to be appropriated for these and subsequent fiscal years an amount equal to the amount of revenue obtained by the Federal Government from the sale of federally owned lands in Clark County, Nevada, after October 1, 1978, reduced for any fiscal year by the amount appropriated, pursuant to this sentence, in the prior fiscal years. Funds appropriated pursuant to this section may be expended without regard to any limitations contained in the provisions of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965. // 16 USC 460I-9. // Amounts authorized to be appropriated under this subsection shall remain available until expended. Authorizations of moneys to be appropriated under this Act shall be effective October 1, 1981. Authority to enter into contracts and agreements and to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

Sec. 4. (a)(1) Effective upon the conveyance or transfer authorized in subsection b, the Act of October 21, 1972, entitled "An Act to provide for the administration of the Mar-A-Lago National Historic Site, in Palm Beach, Florida" // 16 USC 467a and 467a-1. // is repealed.

(2) The order of designation of the Mar-A-Lago National Historic Site, dated January 16, 1969, // 16 USC 461, 467a. // is repealed and the site described therein is hereby designated as the Mar-A-Lago National Historic Landmark.

(b) The Secretary of the Interior shall, within one hundred and twenty days of the date of enactment of this Act, // 16 USC 467a // take such measures, consistent with the terms and conditions of the deed of conveyance from Marjorie M. Post to the United States of America, dated December 18, 1972, as may be necessary to transfer the property described in the order of designation of the Mar-A-Lago National Historic Site to the Majorie Merriweather Post Foundation of the District of Columbia (a charitable foundation organized under the District of Columbia Nonprofit Corporation Act). // D.C. Code 29-1001. //

(c) The Secretary is authorized upon conveyance, to make appropriate adjustments in the funds available for the administration and management of the property, including but not limited to, return of unobligated donated funds to the trustees of the Marjorie

Merriweather Post Foundation of the District of Columbia, and reprogram existing appropriations to related functions and activities of the National Park Service.

Approved December 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96—1023 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 96—1026 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Sept. 8, considered and passed House.

Dec. 4, considered and passed Senate, amended.

Dec. 5, House concurred in Senate amendments.

PL 96–586, 1980 HR 7306

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West's Annotated California Codes Government Code (Refs & Annos) Title 7.4. Tahoe Regional Planning Compact (Refs & Annos)

West's Ann.Cal.Gov.Code § 66800

§ 66800. Ratification and approval

[Currentness](#)

The Legislature of California hereby ratifies and approves the “Tahoe Regional Planning Compact” as set forth below.

Credits

(Added by Stats.1967, c. 1589, p. 3804, § 1.)

[Notes of Decisions \(2\)](#)

West's Ann. Cal. Gov. Code § 66800, CA GOVT § 66800

Current with all laws through Ch. 870 of 2019 Reg.Sess.

End of Document

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West's Annotated California Codes Government Code (Refs & Annos) Title 7.4. Tahoe Regional Planning Compact (Refs & Annos)

West's Ann.Cal.Gov.Code § 66801

§ 66801. Provisions of compact

Effective: January 1, 2020

[Currentness](#)

<Section operative on the date when the State of Nevada adopts the amendments to Article IX of the Tahoe Regional Planning compact, as referenced in [Stats.2019, c. 469 \(S.B.785\), § 20](#). See, also, [§ 66801](#) operative until the State of Nevada adopts the amendments to Article IX of the Tahoe Regional Planning compact, as referenced in [Stats.2019, c. 469 \(S.B.785\), § 20](#).>

The provisions of this interstate compact executed between the States of Nevada and California are as follows:

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 that are irreplaceable.
- (4) By virtue of the special conditions and circumstances of the region's natural ecology, developmental pattern, population distribution, 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, and 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 multistate 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 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 ensure 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 that 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 provisions of this compact.

ARTICLE II. DEFINITIONS

As used in this compact, the following terms have the following meanings:

(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 that 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, fan-tan, 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.

(h) “Project” means 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.

(i) “Environmental threshold carrying capacity” means an environmental standard necessary to maintain a significant scenic, recreational, educational, scientific, or natural value of the region or to maintain public health and safety within the region. Such standards shall include, but not be limited to, standards for air quality, water quality, soil conservation, vegetation preservation, and noise.

(j) “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(k) “Areas open to public use” means all of the areas within a structure housing gaming under a nonrestricted license except areas devoted to the private use of guests.

(l) “Areas devoted to private use of guests” means hotel rooms and hallways to serve hotel room areas, and any parking areas. A hallway serves hotel room areas if more than 50 percent of the areas of each side of the hallway are hotel rooms.

(m) “Nonrestricted license” means a gaming license that is not a restricted gaming license.

ARTICLE III. ORGANIZATION

(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

The governing body of the agency shall be constituted as follows:

(1) California delegation:

(A) One member appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointed by the City Council of the City of South Lake Tahoe. Any such member may be a member of the county board of supervisors or city council, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) Two members appointed by the Governor of California, one member appointed by the Speaker of the Assembly of California, and one member appointed by the Senate Rules Committee of the State of California. The members appointed pursuant to this subparagraph shall not be residents of the region and shall represent the public at large within the State of California. A member appointed by the Speaker of the Assembly or the Senate Rules Committee may, subject to confirmation by the appointing power, designate an alternate to attend meetings and vote in the absence of the appointed member. The designation of a named alternate, which shall be in writing and contain evidence of confirmation by the appointing power, shall be kept on file with the agency. An appointed member may change the alternate from time to time, with the confirmation of the appointing power, but shall have only one designated alternate at a time. An alternate shall be subject to those qualifications and requirements prescribed by this compact that are applicable to the appointed member.

(2) Nevada delegation:

(A) One member appointed by each of the boards of county commissioners of Douglas and Washoe Counties and one member appointed by the Board of Supervisors of Carson City. Any such member may be a member of the board of county commissioners or board of supervisors, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) Two members appointed by the Governor of Nevada, one member appointed by the Speaker of the Assembly and one member appointed by the Majority Leader of the Nevada Senate. All members appointed pursuant to this subparagraph shall not be residents of the region and shall represent the public at large within the State of Nevada. A member appointed by the Speaker of the Nevada Assembly or the Majority Leader of the Nevada Senate may, subject to confirmation by the appointing power, designate an alternate to attend meetings and vote in the absence of the appointed member. The designation of a named alternate, which shall be in writing and contain evidence of confirmation by the appointing power, shall be kept on file with the agency. An appointed member may change the alternate from time to time, with the confirmation of the appointing power, but shall have only one designated alternate at a time. An alternate shall be subject to those qualifications and requirements prescribed by this compact that are applicable to the appointed member.

(3) If any appointing authority under subparagraph (A) or (B) of paragraph (1) or subparagraph (A) or (B) of paragraph (2) fails to make such an appointment within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body, the governor of the state in which the appointing authority is located shall make the appointment. The term of any member so appointed shall be one year.

(4) The position of any member of the governing body shall be deemed vacant if such a member is absent from three consecutive meetings of the governing body in any calendar year.

(5) Each member and employee of the agency shall disclose any economic interests in the region within 10 days after taking a seat on the governing board or being employed by the agency and shall thereafter disclose any further economic interest acquired as soon as feasible after acquiring it. As used in this paragraph, "economic interests" means any of the following:

(A) Any business entity operating in the region in which the member or employee has a direct or indirect investment worth more than one thousand dollars (\$1,000).

(B) Any real property located in the region in which the member or employee has a direct or indirect interest worth more than one thousand dollars (\$1,000).

(C) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating two hundred fifty dollars (\$250) or more in value received by or promised to the member within the preceding 12 months.

(D) Any business entity operating in the region in which the member or employee is a director, officer, partner, trustee, or employee, or holds any position of management.

No member or employee of the agency shall make, or attempt to influence, an agency decision in which they know or have reason to know that they have an economic interest. Members and employees of the agency must disqualify themselves from making or participating in the making of any decision of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interests of the member or employee.

(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body that they represent in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this compact unless met in some other manner specifically provided, shall be paid by the agency out of its own funds.

(c) The members of the governing body serve at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every four years. Members may be reappointed.

(d) The governing body of the agency shall meet at least monthly. All meetings shall be open to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date for its regular monthly meeting in such terms as "the first Monday of each month," and shall not change such date more often than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Notice of any special meeting, except an emergency meeting, shall be given by publishing the date and place and posting an agenda at least five days prior to the meeting.

(e) The position of a member of the governing body shall be considered vacated upon the loss of any of the qualifications required for that appointment, and in such event the appointing authority shall appoint a successor.

(f) The governing body shall elect from its own members a chairperson and vice chairperson, whose terms of office shall be two years, and who may be reelected. If a vacancy occurs in either office, the governing body may fill such vacancy for the unexpired term.

(g) 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 procedures 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, that 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.

Whenever under the provisions of this compact or any ordinance, rule, regulation, or policy adopted pursuant thereto, the agency is required to review or approve any project, public or private, the agency shall take final action by vote, whether to approve, to require modification or to reject such project, within 180 days after the application for such project is accepted as complete by the agency in compliance with the agency's rules and regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If a final action by vote does not take place within 180 days, the applicant may bring an action in a court of competent jurisdiction to compel a vote unless the applicant has agreed to an extension. This provision does not limit the right of any person to obtain judicial review of agency action under subdivision (h) of Article VI. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations, and procedures.

(h)(1) An advisory planning commission shall be appointed by the agency. The commission shall include: the chief planning officers of Placer County, El Dorado County, and the City of South Lake Tahoe in California and of Douglas County, Washoe County, and Carson City in Nevada, the executive officer of the Lahontan Regional Water Quality Control Board of the State of California, the executive officer of the State Air Resources Board of the State of California, the Director of the State Department of Conservation and Natural Resources of the State of Nevada, the Administrator of the Division of Environmental Protection in the State Department of Conservation and Natural Resources of the State of Nevada, the Administrator of the Lake Tahoe Management Unit of the United States Forest Service, and at least four lay members with an equal number from each state, at least one-half of whom shall be residents of the region. Any official member may designate an alternate.

(2) The term of office of each lay member of the advisory planning commission shall be two years. Members may be reappointed.

(3) The position of each member of the advisory planning commission shall be considered vacated upon loss of any of the qualifications required for appointment, and in such an event the appointing authority shall appoint a successor.

(4) The advisory planning commission shall elect from its own members a chairperson and a vice chairperson, whose terms of office shall be two years and who may be reelected. If a vacancy occurs in either office, the advisory planning commission shall fill such vacancy for the unexpired term.

(5) A majority of the members of the advisory planning commission constitutes a quorum for the transaction of the business of the commission. A majority vote of the quorum present shall be required to take action with respect to any matter.

(i) The agency shall establish and maintain an office within the region, and for this purpose the agency may rent or own property and equipment. Every plan, ordinance, and other record of the agency that is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be opened to inspection and copying during regular office hours.

(j) Each authority charged under this compact or by the law of either state with the duty of appointing a member of the governing body of the agency shall by certified copy of its resolution or other action notify the Secretary of State of its own state of the action taken.

ARTICLE IV. PERSONNEL

(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this compact or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency; and shall be regional and bistrate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either state, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

ARTICLE V. PLANNING

(a) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the planning commission after due notice shall hold at least one public hearing, which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this subdivision shall be given at least 20 days before the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region.

The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify, or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment without referring it to the planning commission. If the governing body initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice as required in this subdivision.

If a request is made for the amendment of the regional plan by either of the following entities, the governing body shall complete its action on the amendment within 180 days after that request is accepted as complete according to standards that must be prescribed by ordinance of the agency:

(1) A political subdivision a part of whose territory would be affected by the amendment.

(2) The owner or lessee of real property that would be affected by the amendment.

(b) The agency shall develop, in cooperation with the States of California and Nevada, environmental threshold carrying capacities for the region. The agency should request the President's Council on Environmental Quality, the United States Forest Service, and other appropriate agencies to assist in developing such environmental threshold carrying capacities. Within 18 months after the effective date of the amendments to this compact, the agency shall adopt environmental threshold carrying capacities for the region.

(c) Within one year after the adoption of the environmental threshold carrying capacities for the region, the agency shall amend the regional plan so that, at a minimum, the plan and all of its elements, as implemented through agency ordinances, rules, and regulations, achieves and maintains the adopted environmental threshold carrying capacities. Each element of the plan shall contain implementation provisions and time schedules for such implementation by ordinance. The planning commission and governing body shall continuously review and maintain the regional plan, and, in so doing, shall ensure that the regional plan reflects changing economic conditions and the economic effect of regulation on commerce. The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region, and a statement of the policies, standards, and elements of the regional plan.

The regional plan shall be a single enforceable plan and include all of the following correlated elements:

(1) A land use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space, and other natural resources within the region, including, but not limited to, an indication or allocation of maximum population densities and permitted uses.

(2) A transportation plan for the integrated development of a regional system of transportation, including, but not limited to, parkways, highways, transportation facilities, transit routes, waterways, navigation facilities, public transportation facilities, bicycle facilities, and appurtenant terminals and facilities for the movement of people and goods within the region. The goal of transportation planning shall be:

(A) To reduce dependency on the automobile by making more effective use of existing transportation modes and of public transit to move people and goods within the region.

(B) To reduce to the extent feasible air pollution that is caused by motor vehicles.

If increases in capacity are required, the agency shall give preference to providing that capacity through public transportation and public programs and projects related to transportation. The agency shall review and consider all existing transportation plans in preparing its regional transportation plan pursuant to this paragraph.

The plan shall provide for an appropriate transit system for the region.

The plan shall give consideration to all of the following:

(A) Completion of the Loop Road in the States of Nevada and California.

(B) Use of a light rail mass transit system in the south shore area.

(C) Use of a transit terminal in the Kingsbury Grade area.

Until the regional plan is revised, or a new transportation plan is adopted in accordance with this paragraph, the agency has no effective transportation plan.

(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including, but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, and recreational and historical facilities.

(4) A recreation plan for the development, use, and management of the recreational resources of the region, including, but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, marinas, areas for skiing, and other recreational facilities.

(5) A public services and facilities plan for the general location, scale, and provision of public services and facilities, which, by the nature of their function, size, extent, and other characteristics are necessary or appropriate for inclusion in the regional plan.

In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the state, federal, and other public agencies and nongovernmental agencies and organizations that affect or are concerned with planning and development within the region.

(d)(1) The regional plan shall provide for attaining and maintaining federal, state, or local air and water quality standards, whichever are strictest, in the respective portions of the region for which the standards are applicable.

(2) The agency may, however, adopt air or water quality standards or control measures more stringent than the applicable state implementation plan or the applicable federal, state, or local standards for the region, if it finds that such additional standards or control measures are necessary to achieve the purposes of this compact. Each element of the regional plan, where applicable, shall, by ordinance, identify the means and time schedule by which air and water quality standards will be attained.

(e) Except for the Regional Transportation Plan of the California Tahoe Regional Planning Agency, the regional plan, ordinances, rules, and regulations adopted by the California Tahoe Regional Planning Agency in effect on July 1, 1980, shall be the regional plan, ordinances, rules, and regulations of the Tahoe Regional Planning Agency for that portion of the Tahoe region located in the State of California. The plan, ordinance, rule, or regulation may be amended or repealed by the governing body of the agency. The plans, ordinances, rules, and regulations of the Tahoe Regional Planning Agency that do not conflict with, or are

not addressed by, the California Tahoe Regional Planning Agency's plans, ordinances, rules, and regulations referred to in this subdivision shall continue to be applicable unless amended or repealed by the governing body of the agency. No provision of the regional plan, ordinances, rules, and regulations of the California Tahoe Regional Planning Agency referred to in this subdivision shall apply to that portion of the region within the State of Nevada, unless such provision is adopted for the Nevada portion of the region by the governing body of the agency.

(f) The regional plan, ordinances, rules, and regulations of the Tahoe Regional Planning Agency apply to that portion of the region within the State of Nevada.

(g) The agency shall adopt ordinances prescribing specific written findings that the agency must make prior to approving any project in the region. These findings shall relate to environmental protection and shall ensure 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.

(h) The agency shall maintain the data, maps, and other information developed in the course of formulating and administering the regional plan, in a form suitable to ensure a consistent view of developmental trends and other relevant information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

(i) Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of state and federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private persons.

ARTICLE VI. AGENCY'S POWERS

(a)(1) The governing body shall adopt all necessary ordinances, rules, and regulations to effectuate the adopted regional plan. Except as otherwise provided in this compact, every such ordinance, rule, or regulation shall establish a minimum standard applicable throughout the region. Any political subdivision or public agency may adopt and enforce an equal or higher requirement applicable to the same subject of regulation in its territory. The regulations of the agency shall contain standards including, but not limited to, the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; landfills, excavations, cuts, and grading; piers, harbors, breakwaters, or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobilehome parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the regional plan, the ordinances, rules, regulations, and policies shall be confined to matters that 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 that conform to the regional plan.

(2) The agency shall prescribe by ordinance those activities that it has determined will not have substantial effect on the land, water, air, space, or any other natural resources in the region and therefore will be exempt from its review and approval.

(3) Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is general throughout the region. Except an ordinance adopting or amending the regional plan, no ordinance

shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

(b)(1) 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.

(2) The agency may approve a project in the region only after making the written findings required by this subdivision or subdivision (g) of Article v. Such findings shall be based on substantial evidence in the record.

(3) Before adoption by the agency of the ordinances required in subdivision (g) of Article V, the agency may approve a project in the region only after making written findings on the basis of substantial evidence in the record that the project is consistent with the regional plan then in effect and with applicable plans, ordinances, regulations, and standards of federal and state agencies relating to the protection, maintenance, and enhancement of environmental quality in the region.

(c) The Legislatures of the States of California and Nevada find that in order to make effective the regional plan as revised by the agency, it is necessary to halt temporarily works of development in the region that might otherwise absorb the entire capability of the region for further development or direct it out of harmony with the ultimate plan. Subject to the limitation provided in this subdivision, from the effective date of the amendments to this compact until the regional plan is amended pursuant to subdivision (c) of Article V, or until May 1, 1983, whichever is earlier:

(1) Except as otherwise provided in this paragraph, no new subdivision, planned unit development, or condominium project may be approved unless a complete tentative map or plan has been approved before the effective date of the amendments to this compact by all agencies having jurisdiction. The subdivision of land owned by a general improvement district, which existed and owned the land before the effective date of the amendments to this compact, may be approved if subdivision of the land is necessary to avoid insolvency of the district.

(2) Except as provided in paragraph (3), no apartment building may be erected unless the required permits for such building have been secured from all agencies having jurisdiction, before the effective date of the amendments to this compact.

(3)(A) During each of the calendar years 1980, 1981, and 1982, no city or county may issue building permits that authorize the construction of a greater number of new residential units within the region than were authorized within the region by building permits issued by that city or county during the calendar year 1978. For the period of January through April 1983, building permits authorizing the construction of no more than one-third of that number may be issued by each such city or county. For purposes of this paragraph, a "residential unit" means either a single family residence or an individual residential unit within a larger building, such as an apartment building, a duplex, or a condominium.

(B) The Legislatures find the respective numbers of residential units authorized within the region during the calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined).....	252
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2.	Placer County.....	278
3.	Carson City.....	0
4.	Douglas County.....	339
5.	Washoe County.....	739

(4)(A) During each of the calendar years 1980, 1981, and 1982, no city or county may issue building permits that authorize construction of a greater square footage of new commercial buildings within the region than were authorized within the region by building permits for commercial purposes issued by that city or county during the calendar year 1978. For the period of January through April 1983, building permits authorizing the construction of no more than one-third the amount of that square footage may be issued by each such city or county.

(B) The Legislatures find the respective square footages of commercial buildings authorized within the region during the calendar year 1978 to be as follows:

1.	City of South Lake Tahoe and El Dorado County (combined).....	64,324
2.	Placer County.....	23,000
3.	Carson City.....	0
4.	Douglas County.....	57,354
5.	Washoe County.....	50,600

(5) No structure may be erected to house gaming under a nonrestricted license.

(6) No facility for the treatment of sewage may be constructed or enlarged except in any of the following circumstances:

(A) To comply, as ordered by the appropriate state agency for the control of water pollution, with existing limitations of effluence under the federal Clean Water Act ([33 U.S.C. Sec. 1251 et seq.](#)) and the applicable state law for control of water pollution.

(B) To accommodate development which is not prohibited or limited by this subdivision.

(C) In the case of Douglas County Sewer District #1, to modify or otherwise alter sewage treatment facilities existing on the effective date of the amendments to this compact so that such facilities will be able to treat the total volume of effluence for which they were originally designed, which is 3.0 mgd. The modification or alteration is not a “project,” is not subject to the requirements of Article VII, and does not require a permit from the agency. Before commencing that modification or alternative, however, the district shall submit to the agency its report identifying any significant soil erosion problems that may be caused by the modifications or alterations and the measures that the district proposes to take to mitigate or avoid those problems.

The moratorium imposed by this subdivision does not apply to work done pursuant to a right vested before the effective date of the amendments to this compact. Notwithstanding the expiration date of the moratorium imposed by this subdivision, no

new highway may be built or existing highway widened to accommodate additional continuous lanes for automobiles until the regional transportation plan is revised and adopted.

The moratorium imposed by this subdivision does not apply to the construction of any parking garage that has been approved by the agency before May 4, 1979, whether that approval was affirmative or by default. The provisions of this paragraph are not an expression of legislative intent that any such parking garage, the approval of which is the subject of litigation that was pending on the effective date of the amendments to this compact, should, or should not, be constructed. The provisions of this paragraph are intended solely to permit construction of such a parking garage if judgment sustaining the agency's approval to construct that parking garage has become final and no appeal is pending or may lawfully be taken to a higher court.

(d) Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an approval by the Tahoe Regional Planning Agency, whether that approval was affirmative or by default, if that litigation was pending on May 4, 1979, the agency and the States of California and Nevada shall recognize as a permitted and conforming use:

(1) Every structure housing gaming under a nonrestricted license that existed as a licensed gaming establishment on May 4, 1979, or whose construction was approved by the Tahoe Regional Planning Agency affirmatively or deemed approved before that date. The construction or use of any structure to house gaming under a nonrestricted license not so existing or approved, or the enlargement in cubic volume of any such existing or approved structure is prohibited.

(2) Every other nonrestricted gaming establishment whose use was seasonal and whose license was issued before May 4, 1979, for the same season and for the number and type of games and slot machines on which taxes or fees were paid in the calendar year 1978.

(3) Gaming conducted pursuant to a restricted gaming license issued before May 4, 1979, to the extent permitted by that license on that date. The area within any structure housing gaming under a nonrestricted license that may be open to public use (as distinct from that devoted to the private use of guests and exclusive of any parking area) is limited to the area existing or approved for public use on May 4, 1979. Within these limits, any external modification of the structure that requires a permit from a local government also requires approval from the agency. The agency shall not permit restaurants, convention facilities, showrooms, or other public areas to be constructed elsewhere in the region outside the structure in order to replace areas existing or approved for public use on May 4, 1979.

(e) Any structure housing licensed gaming may be rebuilt or replaced to a size not to exceed the cubic volume, height, and land coverage existing or approved on May 4, 1979, without the review or approval of the agency or any planning or regulatory authority of the State of Nevada whose review or approval would be required for a new structure.

(f) The following provisions apply to any internal or external modification, remodeling, change in use, or repair of a structure housing gaming under a nonrestricted license that is not prohibited by subdivision (d):

(1) The agency's review of an external modification of the structure that requires a permit from a local government is limited to determining whether the external modification will do any of the following:

(A) Enlarge the cubic volume of the structure.

(B) Increase the total square footage of area open to or approved for public use on May 4, 1979.

(C) Convert an area devoted to the private use of guests to an area open to public use.

(D) Increase the public area open to public use that is used for gaming beyond the limits contained in paragraph (3).

(E) Conflict with or be subject to the provisions of any of the agency's ordinances that are generally applicable throughout the region.

The agency shall make this determination within 60 days after the proposal is delivered to the agency in compliance with the agency's rules or regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If an external modification is determined to have any of the effects enumerated in subparagraphs (A) through (C), it is prohibited. If an external modification is determined to have any of the effects enumerated in subparagraph (D) or (E), it is subject to the applicable provisions of this compact. If an external modification is determined to have no such effect, it is not subject to the provisions of this compact.

(2) Except as provided in paragraph (3), internal modification, remodeling, change in use, or repair of a structure housing gaming under a nonrestricted license is not a project and does not require the review or approval of the agency.

(3) Internal modification, remodeling, change in use, or repair of areas open to the public use within a structure housing gaming under a nonrestricted license that alone or in combination with any other such modification, remodeling, change in use, or repair will increase the total portion of those areas that are used for gaming by more than the product of the total base area, as defined below, in square feet existing on or approved before August 4, 1980, multiplied by 15 percent constitutes a project and is subject to all of the provisions of this compact relating to projects. For purposes of this paragraph and the determination required by subdivision (g), base area means all of the area within a structure housing gaming under a nonrestricted license that may be open to public use, whether or not gaming is actually conducted or carried on in that area, except retail stores, convention centers and meeting rooms, administrative offices, kitchens, maintenance and storage areas, restrooms, engineering and mechanical rooms, accounting rooms, and counting rooms.

(g) In order to administer and enforce the provisions of subdivisions (d), (e), and (f), the State of Nevada, through its appropriate planning or regulatory agency, shall require the owner or licensee of a structure housing gaming under a nonrestricted license to provide both of the following:

(1) Documents containing sufficient information for the Nevada agency to establish all of the following relative to the structure:

(A) The location of its external walls.

(B) Its total cubic volume.

(C) Within its external walls, the area in square feet open or approved for public use and the area in square feet devoted to or approved for the private use of guests on May 4, 1979.

(D) The amount of surface area of land under the structure.

(E) The base area as defined in paragraph (3) of subdivision (f) in square feet existing on or approved before August 4, 1980.

(2) An informational report whenever any internal modification, remodeling, change in use, or repair will increase the total portion of the areas open to public use that is used for gaming.

The Nevada agency shall transmit this information to the Tahoe Regional Planning Agency.

(h) Gaming conducted pursuant to a restricted gaming license is exempt from review by the agency if it is incidental to the primary use of the premises.

(i) The provisions of subdivisions (d) and (e) are intended only to limit gaming and related activities as conducted within a gaming establishment, or construction designed to permit the enlargement of such activities, and not to limit any other use of property zoned for commercial use or the accommodation of tourists, as approved by the agency.

(j) Legal actions arising out of or alleging a violation of the provisions of this compact, of the regional plan, or of an ordinance or regulation of the agency or of a permit or a condition of a permit issued by the agency are governed by the following provisions:

(1) This subdivision applies to:

(A) Actions arising out of activities directly undertaken by the agency.

(B) Actions arising out of the issuance to a person of a lease, permit, license, or other entitlement for use by the agency.

(C) Actions arising out of any other act or failure to act by any person or public agency.

Those legal actions may be filed and the provisions of this subdivision apply equally in the appropriate courts of California and Nevada and of the United States.

(2) Venue lies:

(A) If a civil or criminal action challenges an activity by the agency or any person that is undertaken or to be undertaken upon a parcel of real property, in the state or federal judicial district where the real property is situated.

(B) If an action challenges an activity that does not involve a specific parcel of land (such as an action challenging an ordinance of the agency), in any state or federal court having jurisdiction within the region.

(3) Any aggrieved person may file an action in an appropriate court of the State of California or Nevada or of the United States alleging noncompliance with the provisions of this compact or with an ordinance or regulation of the agency. In the case of governmental agencies, “aggrieved person” means the Tahoe Regional Planning Agency or any state, federal, or local agency. In the case of any person other than a governmental agency who challenges an action of the Tahoe Regional Planning Agency, “aggrieved person” means any person who has appeared, either in person, through an authorized representative, or in writing, before the agency at an appropriate administrative hearing to register objection to the action that is being challenged, or who had good cause for not making such an appearance.

(4) A legal action arising out of the adoption or amendment of the regional plan or of any ordinance or regulation of the agency, or out of the granting or denial of any permit, shall be commenced within 60 days after final action by the agency. All other legal actions shall be commenced within 65 days after discovery of the cause of action.

(5)(A) In any legal action filed pursuant to this subdivision that challenges an adjudicatory act or decision of the agency to approve or disapprove a project, the scope of judicial inquiry shall extend only to whether there was prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law or if the act or decision of the agency was not supported by substantial evidence in light of the whole record. In making such a determination the court shall not exercise its independent judgment on evidence but shall only determine whether the act or decision was supported by substantial evidence in light of the whole record. In any legal action filed pursuant to this subdivision that challenges a legislative act or decision of the agency (such as the adoption of the regional plan and the enactment of implementing ordinances), the scope of the judicial inquiry shall extend only to the questions of whether the act or decision has been arbitrary, capricious, or lacking substantial evidentiary support or whether the agency has failed to proceed in a manner required by law.

(B)(i) When adopting or amending a regional plan, the agency shall act in accordance with the requirements of the compact and its implementing ordinances, rules, and regulations, and a party challenging the regional plan has the burden of showing that the regional plan is not in conformance with those requirements.

(ii) When taking an action or making a decision, the agency shall act in accordance with the requirements of the compact and the regional plan, including the implementing ordinances, rules, and regulations, and a party challenging the action or decision has the burden of showing that the act or decision is not in conformance with those requirements.

(6) The provisions of this subdivision do not apply to any legal proceeding pending on the date when this subdivision becomes effective. Any such legal proceeding shall be conducted and concluded under the provisions of law that were applicable before the effective date of this subdivision.

(7) The security required for the issuance of a temporary restraining order or preliminary injunction based upon an alleged violation of this compact or any ordinance, plan, rule, or regulation adopted pursuant thereto is governed by the rule or statute applicable to the court in which the action is brought unless the action is brought by a public agency or political subdivision to enforce its own rules, regulations, and ordinances in which case no security shall be required.

(k) The agency shall monitor activities in the region and may bring enforcement actions in the region to ensure compliance with the regional plan and adopted ordinances, rules, regulations, and policies. If it is found that the regional plan, or ordinances,

rules, regulations, and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to ensure compliance.

(l) Any person who violates any provision of this compact or of any ordinance or regulation of the agency or of any condition of approval imposed by the agency is subject to a civil penalty not to exceed five thousand dollars (\$5,000). Any such person is subject to an additional civil penalty not to exceed five thousand dollars (\$5,000) per day, for each day on which such 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.

(m) The agency is hereby empowered to initiate, negotiate, and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by state or federal law.

(n) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

(o) Every record of the agency, whether public or not, shall be open for examination to the Legislature and Controller of the State of California and the Legislative Auditor of the State of Nevada.

(p) Approval by the agency of any project expires three years after the date of final action by the agency or the effective date of the amendments to this compact, whichever is later, unless construction is begun within that time and diligently pursued thereafter, or the use or activity has commenced. In computing the three-year period any period of time during which the project is the subject of a legal action that delays or renders impossible the diligent pursuit of that project shall not be counted. Any license, permit, or certificate issued by the agency that has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this subdivision.

(q) The governing body shall maintain a current list of real property known to be available for exchange with the United States or with other owners of real property in order to facilitate exchanges of real property by owners of real property in the region.

ARTICLE VII. ENVIRONMENTAL IMPACT STATEMENTS

(a) The Tahoe Regional Planning Agency, when acting upon matters that have a significant effect on the environment, shall do all of the following:

(1) Use a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking that may have an impact on the environment of humans.

(2) Prepare and consider a detailed environmental impact statement before deciding to approve or carry out any project. The detailed environmental impact statement shall include all of the following:

(A) The significant environmental impacts of the proposed project.

- (B) Any significant adverse environmental effects that cannot be avoided should the project be implemented.
 - (C) Alternatives to the proposed project.
 - (D) Mitigation measures that must be implemented to ensure meeting standards of the region.
 - (E) The relationship between local short-term uses of the environment of humans and the maintenance and enhancement of long-term productivity.
 - (F) Any significant irreversible and irretrievable commitments of resources that would be involved in the proposed project should it be implemented.
 - (G) The growth-inducing impact of the proposed project.
- (3) Study, develop, and describe appropriate alternatives to recommended courses of action for any project that involves unresolved conflicts concerning alternative uses of available resources.
 - (4) Make available to states, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the region's environment.
 - (5) Initiate and use ecological information in the planning and development of resource-oriented projects.
- (b) Before completing an environmental impact statement, the agency shall consult with and obtain the comments of any federal, state, or local agency that has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, state, and local agencies that are authorized to develop and enforce environmental standards shall be made available to the public and shall accompany the project through the review processes. The public shall be consulted during the environmental impact statement process and views shall be solicited during a public comment period not to be less than 60 days.
 - (c)(1) Any environmental impact statement required pursuant to this article need not repeat in its entirety any information or data that is relevant to such a statement and is a matter of public record or is generally available to the public, such as information contained in an environmental impact report prepared pursuant to the California Environmental Quality Act ([Division 13 \(commencing with Section 21000\) of the Public Resources Code](#)) or a federal environmental impact statement prepared pursuant to the federal National Environmental Policy Act of 1969 ([42 U.S.C. Sec. 4321 et seq.](#)). However, the information or data shall be briefly described in the environmental impact statement and its relationship to the environmental impact statement shall be indicated.
 - (2) In addition, any person may submit information relative to a proposed project that may be included, in whole or in part, in any environmental impact statement required by this article.

(d) In addition to the written findings specified by agency ordinance to implement the regional plan, the agency shall make either of the following written findings before approving a project for which an environmental impact statement was prepared:

(1) Changes or alterations have been required in or incorporated into such project that avoid or reduce the significant adverse environmental effects to a less than significant level.

(2) Specific considerations, such as economic, social, or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project.

A separate written finding shall be made for each significant effect identified in the environmental impact statement on the project. All written findings must be supported by substantial evidence in the record.

(e) The agency may charge and collect a reasonable fee from any person proposing a project subject to the provisions of this compact in order to recover the estimated costs incurred by the agency in preparing an environmental impact statement under this article.

(f) The agency shall adopt by ordinance a list of classes of projects that the agency has determined will not have a significant effect on the environment and therefore will be exempt from the requirement for the preparation of an environmental impact statement under this article. Before adopting the list, the agency shall make a written finding supported by substantial evidence in the record that each class of projects will not have a significant effect on the environment.

ARTICLE VIII. FINANCES

(a) On or before September 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of the following year. The agency shall apportion seventy-five thousand dollars (\$75,000) of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. In addition, each county within the region in California shall pay eighteen thousand seven hundred fifty dollars (\$18,750) to the agency and each county within the region in Nevada, including Carson City, shall pay twelve thousand five hundred dollars (\$12,500) to the agency, from any funds available therefor. The State of California and the State of Nevada may pay to the agency by July 1, of each year any additional sums necessary to support the operations of the agency pursuant to this compact. If additional funds are required, the agency shall make a request for the funds to the States of California and Nevada. Requests for state funds must be apportioned two-thirds from California and one-third from Nevada. Money appropriated shall be paid within 30 days.

(b) The agency may fix and collect reasonable fees for any services rendered by it.

(c) The agency shall submit an itemized budget to the states for review with any request for state funds, shall be strictly accountable to any county in the region and the states for all funds paid by them to the agency and shall be strictly accountable to all participating bodies for all receipts and disbursement.

(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds, but the agency may not own land except as provided in subdivision (i) of Article III.

(e) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties and the states for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party states or any political subdivision thereof.

ARTICLE IX. TRANSPORTATION DISTRICT

(a) The Tahoe Transportation District is hereby established as a special purpose district authorized and operating under the federal authority provided by [Public Law 96-551](#).¹ The boundaries of the district are conterminous with those of the region as established under [Public Law 96-551](#) for the Tahoe Regional Planning Agency.

(b) The business of the district shall be managed by a board of directors consisting of the following members:

(1) One member of the Board of Supervisors of each of the Counties of El Dorado and Placer appointed by the respective board of supervisors.

(2) One member of the City Council of South Lake Tahoe appointed by the city council.

(3) One member each of the Board of County Commissioners of Douglas County and Washoe County appointed by the respective board of county commissioners.

(4) One member of the Board of Supervisors of Carson City appointed by the board of supervisors.

(5) One member of the South Shore Transportation Management Association, or its successor organization, appointed by the association.

(6) One member of the North Shore Transportation Management Association, or its successor organization, appointed by the association.

(7) One member appointed by the governing body of the agency.

(8) One member appointed by a majority of the other voting directors who represents a public or private transportation system operating in the region.

(9) The Director of the Department of Transportation of the State of California.

- (10) The Director of the Department of Transportation of the State of Nevada.
- (11) One member appointed by the Governor of California.
- (12) One member appointed by the Governor of Nevada.
- (c) Any appointing authority may designate an alternate.
- (d) The Director of the Department of Transportation of the State of California and the Director of the Department of Transportation of the State of Nevada shall serve as nonvoting directors, but shall provide technical and professional advice to the district as necessary and appropriate.
- (e) The board of directors shall elect from its own members a chairperson and a vice chairperson, whose terms of office shall be two years. If a vacancy occurs in either office, the board may fill that vacancy for the unexpired term. A member who is elected to serve as chairperson or vice chairperson pursuant to this subdivision may be elected to serve a subsequent term as chairperson or vice chairperson, as applicable.
- (f) The affirmative vote of at least a majority of the directors shall be required for the transaction of any business of the board of directors. If a majority of votes in favor of an action are not cast, an action of rejection shall be deemed to have been taken.
- (g) The district may by resolution establish procedures for the adoption of its budgets, the appropriation of money, and the carrying on of its other financial activities. Those procedures shall conform insofar as is practicable to the procedures for financial administration of the State of California or the State of Nevada or one or more of the local governments in the district.
- (h) The district may, in accordance with its adopted transportation plan, do all of the following:
 - (1) Own and operate a public transportation system to the exclusion of all other publicly owned transportation systems in the region.
 - (2) Own and operate support facilities for public or private transportation systems, including, but not limited to, parking lots, maintenance facilities, terminals, and related equipment, including revenue collection devices.
 - (3) Acquire and enter into agreements to operate upon mutually acceptable terms any public or private transportation system or facility within the region.
 - (4) Hire the employees of existing public transportation systems that are acquired by the district, without loss of benefits to the employees, bargain collectively with the employees, and extend pension and other collateral benefits to employees.
 - (5) Fix the rates and charges for transportation services provided pursuant to this article.

(6) Issue revenue bonds and other evidence of indebtedness and make other financial arrangements appropriate for developing and operating a public transportation system.

(7) Contract with private companies to provide supplementary transportation or provide any of the services needed in operating a system of transportation for the region.

(8) Contract with local governments in the region to operate transportation facilities and services under mutually agreeable terms and conditions.

(9) By resolution, determine and propose for adoption a tax for the purpose of obtaining services of the district. The proposed tax shall be of general and of uniform operation throughout the region and may not be graduated in any way, except for a sales and use tax. If a sales and use tax is approved by the voters, as provided in this paragraph, it may be administered through the State of California and the State of Nevada, respectively, in accordance with the laws that apply within their respective jurisdictions and shall not exceed a rate of 1 percent of the gross receipts from the sale of tangible personal property sold in the district. The district is prohibited from imposing an ad valorem tax, a tax measured by gross or net receipts on business, a tax or charge that is assessed against persons or vehicles as they enter or leave the region, or any tax, direct or indirect, on gaming tables and devices. Any such proposition shall be submitted to the voters of the district and shall become effective upon approval in accordance with the applicable voter approval requirement for the voters voting on the proposition who reside in the State of California and upon approval in accordance with the applicable voter approval requirement for the voters voting on the proposition who reside in the State of Nevada. The revenues from the tax shall be used for the services for which it was imposed and for no other purpose.

(10) Provide services from inside the region to convenient airport, railroad, and bus terminals without regard to the boundaries of the region.

(11) The Legislature of the State of California and the Legislature of the State of Nevada may, by substantially identical enactments, amend this article.

ARTICLE X. MISCELLANEOUS

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in subdivision (c), the provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining state and in full force and effect as to the state affected as to all severable matters.

(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other.

(c) A state party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other state and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

(d) No provision of this compact shall have any effect upon the allocation, distribution, or storage of interstate waters or upon any appropriative water right.

Credits

(Added by Stats.1980, c. 872, p. 2710, § 2. Amended by Stats.1983, c. 471, § 1; Stats.1984, c. 132, § 1, eff. May 22, 1984; Stats.1986, c. 167, § 1; [Stats.1988, c. 820, § 1](#); [Stats.1997, c. 322 \(S.B.815\), § 1](#); [Stats.2013, c. 762 \(S.B.630\), § 2](#); [Stats.2019, c. 469 \(S.B.785\), § 3](#), eff. Jan. 1, 2020, (contingent effective date).)

Editors' Notes

CONTINGENT OPERATION

<Amendment of this section by Stats.2019 c. 469 (S.B.785), § 3 is contingent upon the State of Nevada adopting amendments to Article IX of the Tahoe Regional Planning Compact, under the terms of Section 20 of Stats.2019 c. 469 (S.B.785). >

[Notes of Decisions \(52\)](#)

Footnotes

[1](#) For public law sections classified to the U.S.C.A., see USCA-Tables.

West's Ann. Cal. Gov. Code § 66801, CA GOVT § 66801

Current with all laws through Ch. 870 of 2019 Reg.Sess.

West's Annotated California Codes Government Code (Refs & Annos) Title 7.4. Tahoe Regional Planning Compact (Refs & Annos)

West's Ann.Cal.Gov.Code § 66802

§ 66802. Legislative findings and declarations

Effective: January 1, 2014

[Currentness](#)

(a) The Legislature finds and declares all of the following:

(1) The State of California, by and through the Governor, agrees to cooperate with the State of Nevada in seeking to have the amendment to [Section 66801](#) made by Senate Bill 630 of the 2013-14 Regular Session that requires approval of Congress ratified by Congress as amendments to the Tahoe Regional Planning Compact.

(2) The State of California supports the full implementation of the regional plan update adopted by the Tahoe Regional Planning Agency in December 2012.

(3) The State of California acknowledges the authority of either the State of California or the State of Nevada to withdraw from the Tahoe Regional Planning Compact pursuant to subdivision (c) of Article X of the compact, or pursuant to any other provision of the laws of each respective state.

(b) The Secretary of the Senate shall transmit certified copies of Senate Bill 630 of the 2013-14 Regular Session to the Governor of the State of Nevada and the governing body of the Tahoe Regional Planning Agency, and shall also provide two certified copies of that legislation to the Secretary of the State of Nevada for delivery to the respective houses of its Legislature.

Credits

(Added by [Stats.2013, c. 762 \(S.B.630\), § 3.](#))

West's Ann. Cal. Gov. Code § 66802, CA GOVT § 66802

Current with all laws through Ch. 870 of 2019 Reg.Sess.

End of Document

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West's Nevada Revised Statutes Annotated Title 22. Cooperative Agreements by Public Agencies; Regional Transportation Commissions; Planning and Zoning; Development and Redevelopment (Chapters 271-280) Chapter 277. Cooperative Agreements: State, Counties, Cities, Districts and Other Public Agencies (Refs & Annos) Tahoe Regional Planning Compact (Refs & Annos)

N.R.S. 277.190

277.190. Enactment of Tahoe Regional Planning Compact

Currentness

The Tahoe Regional Planning Compact, set forth in full in [NRS 277.200](#), is hereby enacted into law.

Credits

Added by Laws 1968, p. 4.

N. R. S. 277.190, NV ST 277.190

Current through the end of the 80th Regular Session (2019)

End of Document

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KeyCite Red Flag - Severe Negative Treatment

Enacted Legislation Amended by 2019 Nevada Laws Ch. 207 (S.B. 136),

West's Nevada Revised Statutes Annotated Title 22. Cooperative Agreements by Public Agencies; Regional Transportation Commissions; Planning and Zoning; Development and Redevelopment (Chapters 271-280) Chapter 277. Cooperative Agreements: State, Counties, Cities, Districts and Other Public Agencies (Refs & Annos) Tahoe Regional Planning Compact (Refs & Annos)

N.R.S. 277.200**277.200. Text of Compact**

Effective: October 1, 2017

[Currentness](#)

<Section repealed if the Governor of Nevada either proclaims the withdrawal of the State of California from the Compact or finds that the Tahoe Regional Planning Agency has become unable to perform its duties or exercise its powers. See notes for other changes to this section effective under certain conditions.>

The Tahoe Regional Planning Compact is as follows:

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 distribution 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 and 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 multistate 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 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 man-made 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 provisions 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.
- (h) “Project” means 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.
- (i) “Environmental threshold carrying capacity” means an environmental standard necessary to maintain a significant scenic, recreational, educational, scientific or natural value of the region or to maintain public health and safety within the region. Such standards shall include but not be limited to standards for air quality, water quality, soil conservation, vegetation preservation and noise.
- (j) “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.
- (k) “Areas open to public use” means all of the areas within a structure housing gaming under a nonrestricted license except areas devoted to the private use of guests.
- (l) “Areas devoted to private use of guests” means hotel rooms and hallways to serve hotel room areas, and any parking areas. A hallway serves hotel room areas if more than 50 percent of the areas on each side of the hallway are hotel rooms.
- (m) “Nonrestricted license” means a gaming license which is not a restricted gaming license.

ARTICLE III. Organization

- (a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

The governing body of the agency shall be constituted as follows:

- (1) California delegation:

(A) One member appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointed by the City Council of the City of South Lake Tahoe. Any such member may be a member of the county board of supervisors or city council, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) Two members appointed by the Governor of California, one member appointed by the Speaker of the Assembly of California and one member appointed by the Senate Rules Committee of the State of California. The members appointed pursuant to this subparagraph shall not be residents of the region and shall represent the public at large within the State of California.

(2) Nevada delegation:

(A) One member appointed by each of the boards of county commissioners of Douglas and Washoe counties and one member appointed by the board of supervisors of Carson City. Any such member may be a member of the board of county commissioners or board of supervisors, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) One member appointed by the governor of Nevada, the secretary of state of Nevada or his designee, and the director of the state department of conservation and natural resources of Nevada or his designee. Except for the secretary of state and the director of the state department of conservation and natural resources, the members or designees appointed pursuant to this subparagraph shall not be residents of the region. All members appointed pursuant to this subparagraph shall represent the public at large within the State of Nevada.

(C) One member appointed for a 1-year term by the six other members of the Nevada delegation. If at least four members of the Nevada delegation are unable to agree upon the selection of a seventh member within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body for that state the governor of the State of Nevada shall make such an appointment. The member appointed pursuant to this subparagraph may, but is not required to, be a resident of the region within the State of Nevada.

(3) If any appointing authority under paragraph (1)(A), (1)(B), (2)(A) or (2)(B) fails to make such an appointment within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body, the governor of the state in which the appointing authority is located shall make the appointment. The term of any member so appointed shall be 1 year.

(4) The position of any member of the governing body shall be deemed vacant if such a member is absent from three consecutive meetings of the governing body in any calendar year.

(5) Each member and employee of the agency shall disclose his economic interests in the region within 10 days after taking his seat on the governing board or being employed by the agency and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. As used in this paragraph, "economic interests" means:

(A) Any business entity operating in the region in which the member or employee has a direct or indirect investment worth more than \$1,000;

(B) Any real property located in the region in which the member or employee has a direct or indirect interest worth more than \$1,000;

(C) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating \$250 or more in value received by or promised to the member within the preceding 12 months; or

(D) Any business entity operating in the region in which the member or employee is a director, officer, partner, trustee, employee or holds any position of management.

No member or employee of the agency shall make, or attempt to influence, an agency decision in which he knows or has reason to know he has an economic interest. Members and employees of the agency must disqualify themselves from making or participating in the making of any decision of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interests of the member or employee.

(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body which he represents in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this compact unless met in some other manner specifically provided, shall be paid by the agency out of its own funds.

(c) Except for the secretary of state and director of the state department of conservation and natural resources of Nevada and the member appointed pursuant to subdivision (a)(2)(C), the members of the governing body serve at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every 4 years. Members may be reappointed.

(d) The governing body of the agency shall meet at least monthly. All meetings shall be open to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date for its regular monthly meeting in such terms as "the first Monday of each month," and shall not change such date more often than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Notice of any special meeting, except an emergency meeting, shall be given by so publishing the date and place and posting an agenda at least 5 days prior to the meeting.

(e) The position of a member of the governing body shall be considered vacated upon his loss of any of the qualifications required for his appointment and in such event the appointing authority shall appoint a successor.

(f) The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be 2 years, and who may be reelected. If a vacancy occurs in either office, the governing body may fill such vacancy for the unexpired term.

(g) 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 procedures 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.

Whenever under the provisions of this compact or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any project, public or private, the agency shall take final action by vote, whether to approve, to require modification or to reject such project, within 180 days after the application for such project is accepted as complete by the agency in compliance with the agency's rules and regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If a final action by vote does not take place within 180 days, the applicant may bring an action in a court of competent jurisdiction to compel a vote unless he has agreed to an extension. This provision does not limit the right of any person to obtain judicial review of agency action under subdivision (h) of Article VI. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations and procedures.

(h) An advisory planning commission shall be appointed by the agency. The commission shall include: the chief planning officers of Placer County, El Dorado County, and the City of South Lake Tahoe in California and of Douglas County, Washoe County and Carson City in Nevada, the executive officer of the Lahontan Regional Water Quality Control Board of the State of California, the executive officer of the Air Resources Board of the State of California, the director of the state department of conservation and natural resources of the State of Nevada, the administrator of the division of environmental protection in the state department of conservation and natural resources of the State of Nevada, the administrator of the Lake Tahoe Management Unit of the United States Forest Service, and at least four lay members with an equal number from each state, at least half of whom shall be residents of the region. Any official member may designate an alternate.

The term of office of each lay member of the advisory planning commission shall be 2 years. Members may be reappointed.

The position of each member of the advisory planning commission shall be considered vacated upon loss of any of the qualifications required for appointment, and in such an event the appointing authority shall appoint a successor.

The advisory planning commission shall elect from its own members a chairman and a vice chairman, whose terms of office shall be 2 years and who may be reelected. If a vacancy occurs in either office, the advisory planning commission shall fill such vacancy for the unexpired term.

A majority of the members of the advisory planning commission constitutes a quorum for the transaction of the business of the commission. A majority vote of the quorum present shall be required to take action with respect to any matter.

(i) The agency shall establish and maintain an office within the region, and for this purpose the agency may rent or own property and equipment. Every plan, ordinance and other record of the agency which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be open to inspection and copying during regular office hours.

(j) Each authority charged under this compact or by the law of either state with the duty of appointing a member of the governing body of the agency shall by certified copy of its resolution or other action notify the Secretary of State of its own state of the action taken.

ARTICLE IV. Personnel

(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this compact or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency; and shall be regional and bistrate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either state, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

ARTICLE V. Planning

(a) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the planning commission after due notice shall hold at least one public hearing which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this subdivision shall be given at least 20 days prior to the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region.

The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment

without referring it to the planning commission. If the governing body initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice as required in this subdivision.

If a request is made for the amendment of the regional plan by:

(1) A political subdivision a part of whose territory would be affected by such amendment; or

(2) The owner or lessee of real property which would be affected by such amendment,

the governing body shall complete its action on such amendment within 180 days after such request is accepted as complete according to standards which must be prescribed by ordinance of the agency.

(b) The agency shall develop, in cooperation with the states of California and Nevada, environmental threshold carrying capacities for the region. The agency should request the President's Council on Environmental Quality, the United States Forest Service and other appropriate agencies to assist in developing such environmental threshold carrying capacities. Within 18 months after the effective date of the amendments to this compact, the agency shall adopt environmental threshold carrying capacities for the region.

(c) Within 1 year after the adoption of the environmental threshold carrying capacities for the region, the agency shall amend the regional plan so that, at a minimum, the plan and all of its elements, as implemented through agency ordinances, rules and regulations, achieves and maintains the adopted environmental threshold carrying capacities. Each element of the plan shall contain implementation provisions and time schedules for such implementation by ordinance. The planning commission and governing body shall continuously review and maintain the regional plan. The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region and a statement of the policies, standards and elements of the regional plan.

The regional plan shall be a single enforceable plan and includes all of the following correlated elements:

(1) A land-use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to an indication or allocation of maximum population densities and permitted uses.

(2) A transportation plan for the integrated development of a regional system of transportation, including but not limited to parkways, highways, transportation facilities, transit routes, waterways, navigation facilities, public transportation facilities, bicycle facilities, and appurtenant terminals and facilities for the movement of people and goods within the region. The goal of transportation planning shall be:

(A) To reduce dependency on the automobile by making more effective use of existing transportation modes and of public transit to move people and goods within the region; and

(B) To reduce to the extent feasible air pollution which is caused by motor vehicles.

Where increases in capacity are required, the agency shall give preference to providing such capacity through public transportation and public programs and projects related to transportation. The agency shall review and consider all existing transportation plans in preparing its regional transportation plan pursuant to this paragraph.

The plan shall provide for an appropriate transit system for the region.

The plan shall give consideration to:

- (A) Completion of the Loop Road in the states of Nevada and California;
- (B) Utilization of a light rail mass transit system in the South Shore area; and
- (C) Utilization of a transit terminal in the Kingsbury Grade area.

Until the regional plan is revised, or a new transportation plan is adopted in accordance with this paragraph, the agency has no effective transportation plan.

(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

(4) A recreation plan for the development, utilization, and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, marinas, areas for skiing and other recreational facilities.

(5) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan.

In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the state, federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region.

(d) The regional plan shall provide for attaining and maintaining federal, state, or local air and water quality standards, whichever are strictest, in the respective portions of the region for which the standards are applicable.

The agency may, however, adopt air or water quality standards or control measures more stringent than the applicable state implementation plan or the applicable federal, state, or local standards for the region, if it finds that such additional standards or control measures are necessary to achieve the purposes of this compact. Each element of the regional plan, where applicable, shall, by ordinance, identify the means and time schedule by which air and water quality standards will be attained.

(e) Except for the Regional Transportation Plan of the California Tahoe Regional Planning Agency, the regional plan, ordinances, rules and regulations adopted by the California Tahoe Regional Planning Agency in effect on July 1, 1980, shall be the regional

plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency for that portion of the Tahoe region located in the State of California. Such plan, ordinance, rule or regulation may be amended or repealed by the governing body of the agency. The plans, ordinances, rules and regulations of the Tahoe Regional Planning Agency that do not conflict with, or are not addressed by, the California Tahoe Regional Planning Agency's plans, ordinances, rules and regulations referred to in this subdivision shall continue to be applicable unless amended or repealed by the governing body of the agency. No provision of the regional plan, ordinances, rules and regulations of the California Tahoe Regional Planning Agency referred to in this subdivision shall apply to that portion of the region within the State of Nevada, unless such provision is adopted for the Nevada portion of the region by the governing body of the agency.

(f) The regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency apply to that portion of the region within the State of Nevada.

(g) The agency shall adopt ordinances prescribing specific written findings that the agency must make prior to approving any project in the region. These findings shall relate to environmental protection and 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.

(h) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the regional plan, in a form suitable to assure a consistent view of developmental trends and other relevant information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

(i) Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of state and federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private persons.

ARTICLE VI. Agency's Powers

(a) The governing body shall adopt all necessary ordinances, rules, and regulations to effectuate the adopted regional plan. Except as otherwise provided in this compact, every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the region. Any political subdivision or public agency may adopt and enforce an equal or higher requirement applicable to the same subject of regulation in its territory. The regulations of the agency shall contain standards including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers, harbors, breakwaters or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile-home parks; house relocation; outdoor advertising; floodplain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the regional plan, the 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.

The agency shall prescribe by ordinance those activities which it has determined will not have substantial effect on the land, water, air, space or any other natural resources in the region and therefore will be exempt from its review and approval.

Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is general throughout the region. Except an ordinance adopting or amending the regional plan, no ordinance shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

(b) 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.

The agency may approve a project in the region only after making the written findings required by this subdivision or subdivision (g) of Article V. Such findings shall be based on substantial evidence in the record.

Before adoption by the agency of the ordinances required in subdivision (g) of Article V, the agency may approve a project in the region only after making written findings on the basis of substantial evidence in the record that the project is consistent with the regional plan then in effect and with applicable plans, ordinances, regulations, and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the region.

(c) The legislatures of the states of California and Nevada find that in order to make effective the regional plan as revised by the agency, it is necessary to halt temporarily works of development in the region which might otherwise absorb the entire capability of the region for further development or direct it out of harmony with the ultimate plan. Subject to the limitation provided in this subdivision, from the effective date of the amendments to this compact until the regional plan is amended pursuant to subdivision (c) of Article V, or until May 1, 1983, whichever is earlier:

(1) Except as otherwise provided in this paragraph, no new subdivision, planned unit development, or condominium project may be approved unless a complete tentative map or plan has been approved before the effective date of the amendments to this compact by all agencies having jurisdiction. The subdivision of land owned by a general improvement district, which existed and owned the land before the effective date of the amendments to this compact, may be approved if subdivision of the land is necessary to avoid insolvency of the district.

(2) Except as provided in paragraph (3), no apartment building may be erected unless the required permits for such building have been secured from all agencies having jurisdiction, prior to the effective date of the amendments to this compact.

(3) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize the construction of a greater number of new residential units within the region than were authorized within the region by building permits issued by that city or county during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the construction of no more than one-third of that number may be issued by each such city or county. For purposes of this paragraph a "residential unit" means either a single family residence or an individual residential unit within a larger building, such as an apartment building, a duplex or a condominium.

The legislatures find the respective numbers of residential units authorized within the region during the calendar year 1978 to be as follows:

- | | |
|--|-----|
| 1. City of South Lake Tahoe and El Dorado County (combined)..... | 252 |
|--|-----|

2. Placer County.....	278
3. Carson City.....	-0-
4. Douglas County.....	339
5. Washoe County.....	739

(4) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize construction of a greater square footage of new commercial buildings within the region than were authorized within the region by building permits for commercial purposes issued by that city or county during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the construction of no more than one-third the amount of that square footage may be issued by each such city or county.

The legislatures find the respective square footages of commercial buildings authorized within the region during calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined).....	64,324
2. Placer County.....	23,000
3. Carson City.....	-0-
4. Douglas County.....	57,354
5. Washoe County.....	50,600

(5) No structure may be erected to house gaming under a nonrestricted license.

(6) No facility for the treatment of sewage may be constructed or enlarged except:

(A) To comply, as ordered by the appropriate state agency for the control of water pollution, with existing limitations of effluent under the Clean Water Act, [33 U.S.C. §§ 1251 et seq.](#), and the applicable state law for control of water pollution;

(B) To accommodate development which is not prohibited or limited by this subdivision; or

(C) In the case of Douglas County Lake Tahoe Sewer Authority, to modify or otherwise alter sewage treatment facilities existing on the effective date of the amendments to this compact so that such facilities will be able to treat the total volume of effluent for which they were originally designed, which is 3.0 million gallons per day. Such modification or alteration is not a “project”; is not subject to the requirements of Article VII; and does not require a permit from the agency. Before commencing such modification or alteration, however, the Authority shall submit to the agency its report identifying any significant soil erosion problems which may be caused by such modifications or alterations and the measures which the Authority proposes to take to mitigate or avoid such problems.

The moratorium imposed by this subdivision does not apply to work done pursuant to a right vested before the effective date of the amendments to this compact. Notwithstanding the expiration date of the moratorium imposed by this subdivision, no

new highway may be built or existing highway widened to accommodate additional continuous lanes for automobiles until the regional transportation plan is revised and adopted.

The moratorium imposed by this subdivision does not apply to the construction of any parking garage which has been approved by the agency prior to May 4, 1979, whether that approval was affirmative or by default. The provisions of this paragraph are not an expression of legislative intent that any such parking garage, the approval of which is the subject of litigation which was pending on the effective date of the amendments to this compact, should or should not be constructed. The provisions of this paragraph are intended solely to permit construction of such a parking garage if a judgment sustaining the agency's approval to construct that parking garage has become final and no appeal is pending or may lawfully be taken to a higher court.

(d) Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an approval by the Tahoe Regional Planning Agency, whether that approval was affirmative or by default, if that litigation was pending on May 4, 1979, the agency and the states of California and Nevada shall recognize as a permitted and conforming use:

(1) Every structure housing gaming under a nonrestricted license which existed as a licensed gaming establishment on May 4, 1979, or whose construction was approved by the Tahoe Regional Planning Agency affirmatively or deemed approved before that date. The construction or use of any structure to house gaming under a nonrestricted license not so existing or approved, or the enlargement in cubic volume of any such existing or approved structure is prohibited.

(2) Every other nonrestricted gaming establishment whose use was seasonal and whose license was issued before May 4, 1979, for the same season and for the number and type of games and slot machines on which taxes or fees were paid in the calendar year 1978.

(3) Gaming conducted pursuant to a restricted gaming license issued before May 4, 1979, to the extent permitted by that license on that date.

The area within any structure housing gaming under a nonrestricted license which may be open to public use (as distinct from that devoted to the private use of guests and exclusive of any parking area) is limited to the area existing or approved for public use on May 4, 1979. Within these limits, any external modification of the structure which requires a permit from a local government also requires approval from the agency. The agency shall not permit restaurants, convention facilities, showrooms or other public areas to be constructed elsewhere in the region outside the structure in order to replace areas existing or approved for public use on May 4, 1979.

(e) Any structure housing licensed gaming may be rebuilt or replaced to a size not to exceed the cubic volume, height and land coverage existing or approved on May 4, 1979, without the review or approval of the agency or any planning or regulatory authority of the State of Nevada whose review or approval would be required for a new structure.

(f) The following provisions apply to any internal or external modification, remodeling, change in use, or repair of a structure housing gaming under a nonrestricted license which is not prohibited by Article VI (d):

(1) The agency's review of an external modification of the structure which requires a permit from a local government is limited to determining whether the external modification will do any of the following:

- (A) Enlarge the cubic volume of the structure;
- (B) Increase the total square footage of area open to or approved for public use on May 4, 1979;
- (C) Convert an area devoted to the private use of guests to an area open to public use;
- (D) Increase the public area open to public use which is used for gaming beyond the limits contained in paragraph (3); and
- (E) Conflict with or be subject to the provisions of any of the agency's ordinances that are generally applicable throughout the region.

The agency shall make this determination within 60 days after the proposal is delivered to the agency in compliance with the agency's rules or regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If an external modification is determined to have any of the effects enumerated in subparagraphs (A) through (C), it is prohibited. If an external modification is determined to have any of the effects enumerated in subparagraph (D) or (E), it is subject to the applicable provisions of this compact. If an external modification is determined to have no such effect, it is not subject to the provisions of this compact.

- (2) Except as provided in paragraph (3), internal modification, remodeling, change in use or repair of a structure housing gaming under a nonrestricted license is not a project and does not require the review or approval of the agency.
- (3) Internal modification, remodeling, change in use or repair of areas open to public use within a structure housing gaming under a nonrestricted license which alone or in combination with any other such modification, remodeling, change in use or repair will increase the total portion of those areas which is actually used for gaming by more than the product of the total base area, as defined below, in square feet existing on or approved before August 4, 1980, multiplied by 15 percent constitutes a project and is subject to all of the provisions of this compact relating to projects. For purposes of this paragraph and the determination required by Article VI (g), base area means all of the area within a structure housing gaming under a nonrestricted license which may be open to public use, whether or not gaming is actually conducted or carried on in that area, except retail stores, convention centers and meeting rooms, administrative offices, kitchens, maintenance and storage areas, rest rooms, engineering and mechanical rooms, accounting rooms and counting rooms.
- (g) In order to administer and enforce the provisions of paragraphs (d), (e) and (f) the State of Nevada, through its appropriate planning or regulatory agency, shall require the owner or licensee of a structure housing gaming under a nonrestricted license to provide:

- (1) Documents containing sufficient information for the Nevada agency to establish the following relative to the structure:
 - (A) The location of its external walls;
 - (B) Its total cubic volume;

(C) Within its external walls, the area in square feet open or approved for public use and the area in square feet devoted to or approved for the private use of guests on May 4, 1979;

(D) The amount of surface area of land under the structure; and

(E) The base area as defined in paragraph (f)(3) in square feet existing on or approved before August 4, 1980.

(2) An informational report whenever any internal modification, remodeling, change in use, or repair will increase the total portion of the areas open to public use which is used for gaming.

The Nevada agency shall transmit this information to the Tahoe Regional Planning Agency.

(h) Gaming conducted pursuant to a restricted gaming license is exempt from review by the agency if it is incidental to the primary use of the premises.

(i) The provisions of subdivisions (d) and (e) are intended only to limit gaming and related activities as conducted within a gaming establishment, or construction designed to permit the enlargement of such activities, and not to limit any other use of property zoned for commercial use or the accommodation of tourists, as approved by the agency.

(j) Legal actions arising out of or alleging a violation of the provisions of this compact, of the regional plan or of an ordinance or regulation of the agency or of a permit or a condition of a permit issued by the agency are governed by the following provisions:

(1) This subdivision applies to:

(A) Actions arising out of activities directly undertaken by the agency.

(B) Actions arising out of the issuance to a person of a lease, permit, license or other entitlement for use by the agency.

(C) Actions arising out of any other act or failure to act by any person or public agency.

Such legal actions may be filed and the provisions of this subdivision apply equally in the appropriate courts of California and Nevada and of the United States.

(2) Venue lies:

(A) If a civil or criminal action challenges an activity by the agency or any person which is undertaken or to be undertaken upon a parcel of real property, in the state or federal judicial district where the real property is situated.

(B) If an action challenges an activity which does not involve a specific parcel of land (such as an action challenging an ordinance of the agency), in any state or federal court having jurisdiction within the region.

(3) Any aggrieved person may file an action in an appropriate court of the State of California or Nevada or of the United States alleging noncompliance with the provisions of this compact or with an ordinance or regulation of the agency. In the case of governmental agencies, "aggrieved person" means the Tahoe Regional Planning Agency or any state, federal or local agency. In the case of any person other than a governmental agency who challenges an action of the Tahoe Regional Planning Agency, "aggrieved person" means any person who has appeared, either in person, through an authorized representative, or in writing, before the agency at an appropriate administrative hearing to register objection to the action which is being challenged, or who had good cause for not making such an appearance.

(4) A legal action arising out of the adoption or amendment of the regional plan or of any ordinance or regulation of the agency, or out of the granting or denial of any permit, shall be commenced within 60 days after final action by the agency. All other legal actions shall be commenced within 65 days after discovery of the cause of action.

(5) In any legal action filed pursuant to this subdivision which challenges an adjudicatory act or decision of the agency to approve or disapprove a project, the scope of judicial inquiry shall extend only to whether there was prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law or if the act or decision of the agency was not supported by substantial evidence in light of the whole record. In making such a determination the court shall not exercise its independent judgment on evidence but shall only determine whether the act or decision was supported by substantial evidence in light of the whole record. In any legal action filed pursuant to this subdivision which challenges a legislative act or decision of the agency (such as the adoption of the regional plan and the enactment of implementing ordinances), the scope of the judicial inquiry shall extend only to the questions of whether the act or decision has been arbitrary, capricious or lacking substantial evidentiary support or whether the agency has failed to proceed in a manner required by law.

(6) In addition to the provisions of paragraph (5) relating to judicial inquiry:

(A) When adopting or amending a regional plan, the agency shall act in accordance with the requirements of the compact and the implementing ordinances, rules and regulations, and a party challenging the regional plan has the burden of showing that the regional plan is not in conformance with those requirements.

(B) When taking an action or making a decision, the agency shall act in accordance with the requirements of the compact and the regional plan, including the implementing ordinances, rules and regulations, and a party challenging the action or decision has the burden of showing that the act or decision is not in conformance with those requirements.

(7) The provisions of this subdivision do not apply to any legal proceeding pending on the date when this subdivision becomes effective. Any such legal proceeding shall be conducted and concluded under the provisions of law which were applicable prior to the effective date of this subdivision.

(8) The security required for the issuance of a temporary restraining order or preliminary injunction based upon an alleged violation of this compact or any ordinance, plan, rule or regulation adopted pursuant thereto is governed by the rule or statute

applicable to the court in which the action is brought, unless the action is brought by a public agency or political subdivision to enforce its own rules, regulations and ordinances in which case no security shall be required.

(k) The agency shall monitor activities in the region and may bring enforcement actions in the region to ensure compliance with the regional plan and adopted ordinances, rules, regulations and policies. If it is found that the regional plan, or ordinances, rules, regulations and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to ensure compliance.

(l) Any person who violates any provision of this compact or of any ordinance or regulation of the agency or of any condition of approval imposed by the agency is subject to a civil penalty not to exceed \$5,000. Any such person is subject to an additional civil penalty not to exceed \$5,000 per day, for each day on which such 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.

(m) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by state or federal law.

(n) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

(o) Every record of the agency, whether public or not, shall be open for examination to the Legislature and Controller of the State of California and the legislative auditor of the State of Nevada.

(p) Approval by the agency of any project expires 3 years after the date of final action by the agency or the effective date of the amendments to this compact, whichever is later, unless construction is begun within that time and diligently pursued thereafter, or the use or activity has commenced. In computing the 3-year period any period of time during which the project is the subject of a legal action which delays or renders impossible the diligent pursuit of that project shall not be counted. Any license, permit or certificate issued by the agency which has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this subdivision.

(q) The governing body shall maintain a current list of real property known to be available for exchange with the United States or with other owners of real property in order to facilitate exchanges of real property by owners of real property in the region.

ARTICLE VII. Environmental Impact Statements

(a) The Tahoe Regional Planning Agency when acting upon matters that have a significant effect on the environment shall:

(1) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment;

(2) Prepare and consider a detailed environmental impact statement before deciding to approve or carry out any project. The detailed environmental impact statement shall include the following:

(A) The significant environmental impacts of the proposed project;

(B) Any significant adverse environmental effects which cannot be avoided should the project be implemented;

(C) Alternatives to the proposed project;

(D) Mitigation measures which must be implemented to assure meeting standards of the region;

(E) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(F) Any significant irreversible and irretrievable commitments of resources which would be involved in the proposed project should it be implemented; and

(G) The growth-inducing impact of the proposed project;

(3) Study, develop and describe appropriate alternatives to recommended courses of action for any project which involves unresolved conflicts concerning alternative uses of available resources;

(4) Make available to states, counties, municipalities, institutions and individuals, advice and information useful in restoring, maintaining and enhancing the quality of the region's environment; and

(5) Initiate and utilize ecological information in the planning and development of resource-oriented projects.

(b) Prior to completing an environmental impact statement, the agency shall consult with and obtain the comments of any federal, state or local agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, state and local agencies which are authorized to develop and enforce environmental standards shall be made available to the public and shall accompany the project through the review processes. The public shall be consulted during the environmental impact statement process and views shall be solicited during a public comment period not to be less than 60 days.

(c) Any environmental impact statement required pursuant to this article need not repeat in its entirety any information or data which is relevant to such a statement and is a matter of public record or is generally available to the public, such as information contained in an environmental impact report prepared pursuant to the California Environmental Quality Act or a federal environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969. However, such information or data shall be briefly described in the environmental impact statement and its relationship to the environmental impact statement shall be indicated.

In addition, any person may submit information relative to a proposed project which may be included, in whole or in part, in any environmental impact statement required by this article.

(d) In addition to the written findings specified by agency ordinance to implement the regional plan, the agency shall make either of the following written findings before approving a project for which an environmental impact statement was prepared:

(1) Changes or alterations have been required in or incorporated into such project which avoid or reduce the significant adverse environmental effects to a less than significant level; or

(2) Specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project.

A separate written finding shall be made for each significant effect identified in the environmental impact statement on the project. All written findings must be supported by substantial evidence in the record.

(e) The agency may charge and collect a reasonable fee from any person proposing a project subject to the provisions of this compact in order to recover the estimated costs incurred by the agency in preparing an environmental impact statement under this article.

(f) The agency shall adopt by ordinance a list of classes of projects which the agency has determined will not have a significant effect on the environment and therefore will be exempt from the requirement for the preparation of an environmental impact statement under this article. Prior to adopting the list, the agency shall make a written finding supported by substantial evidence in the record that each class of projects will not have a significant effect on the environment.

ARTICLE VIII. Finances

(a) On or before September 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of the following year. The agency shall apportion \$75,000 of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. In addition, each county within the region in California shall pay \$18,750 to the agency and each county within the region in Nevada, including Carson City, shall pay \$12,500 to the agency, from any funds available therefor. The State of California and the State of Nevada may pay to the agency by July 1 of each year any additional sums necessary to support the operations of the agency pursuant to this compact. If additional funds are required, the agency shall make a request for the funds to the states of California and Nevada. Requests for state funds must be apportioned two-thirds from California and one-third from Nevada. Money appropriated shall be paid within 30 days.

(b) The agency may fix and collect reasonable fees for any services rendered by it.

(c) The agency shall submit an itemized budget to the states for review with any request for state funds, shall be strictly accountable to any county in the region and the states for all funds paid by them to the agency and shall be strictly accountable to all participating bodies for all receipts and disbursement.

(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds; but the agency may not own land except as provided in subdivision (i) of Article III.

(e) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties and the states for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party states or any political subdivision thereof.

ARTICLE IX. Transportation District

(a) The Tahoe transportation district is hereby established as a special purpose district. The boundaries of the district are coterminous with those of the region.

(b) The business of the district shall be managed by a board of directors consisting of:

(1) One member of the county board of supervisors of each of the counties of El Dorado and Placer who must be appointed by his respective board of supervisors;

(2) One member of the city council of the City of South Lake Tahoe who must be appointed by the city council;

(3) One member each of the board of county commissioners of Douglas County and of Washoe County who must be appointed by his respective board of county commissioners;

(4) One member of the board of supervisors of Carson City who must be appointed by the board of supervisors;

(5) One member of the South Shore Transportation Management Association or its successor organization who must be appointed by the association or its successor organization;

(6) One member of the North Shore Transportation Management Association or its successor organization who must be appointed by the association or its successor organization;

(7) One member of each local transportation district in the region that is authorized by the State of Nevada or the State of California who must be appointed by his respective transportation district;

(8) One member appointed by a majority of the other voting directors who represents a public or private transportation system operating in the region;

(9) The director of the California Department of Transportation; and

(10) The director of the department of transportation of the State of Nevada.

Any entity that appoints a member to the board of directors, the director of the California Department of Transportation or the director of the department of transportation of the State of Nevada may designate an alternate.

(c) Before a local transportation district appoints a member to the board of directors pursuant to paragraph (7) of subdivision (b), the local transportation district must enter into a written agreement with the Tahoe transportation district that sets forth the responsibilities of the districts for the establishment of policies and the management of financial matters, including, but not limited to, the distribution of revenue among the districts.

(d) The directors of the California Department of Transportation and the department of transportation of the State of Nevada, or their designated alternates, serve as nonvoting directors, but shall provide technical and professional advice to the district as necessary and appropriate.

(e) The vote of a majority of the directors must agree to take action. If a majority of votes in favor of an action are not cast, an action of rejection shall be deemed to have been taken.

(f) The Tahoe transportation district may by resolution establish procedures for the adoption of its budgets, the appropriation of its money and the carrying on of its other financial activities. These procedures must conform insofar as is practicable to the procedures for financial administration of the State of California or the State of Nevada or one or more of the local governments in the region.

(g) The Tahoe transportation district may in accordance with the adopted transportation plan:

(1) Own and operate a public transportation system to the exclusion of all other publicly owned transportation systems in the region.

(2) Own and operate support facilities for public and private systems of transportation, including, but not limited to, parking lots, terminals, facilities for maintenance, devices for the collection of revenue and other related equipment.

(3) Acquire or agree to operate upon mutually agreeable terms any publicly or privately owned transportation system or facility within the region.

(4) Hire the employees of existing public transportation systems that are acquired by the district without loss of benefits to the employees, bargain collectively with employee organizations, and extend pension and other collateral benefits to employees.

(5) Contract with private companies to provide supplementary transportation or provide any of the services needed in operating a system of transportation for the region.

(6) Contract with local governments in the region to operate transportation facilities or provide any of the services necessary to operate a system of transportation for the region.

- (7) Fix the rates and charges for transportation services provided pursuant to this subdivision.
- (8) Issue revenue bonds and other evidence of indebtedness and make other financial arrangements appropriate for developing and operating a public transportation system.
- (9) By resolution, determine and propose for adoption a tax for the purpose of obtaining services of the district. The tax proposed must be general and of uniform operation throughout the region, and may not be graduated in any way, except for a sales and use tax. If a sales and use tax is approved by the voters as provided in this paragraph, it may be administered by the states of California and Nevada respectively in accordance with the laws that apply within their respective jurisdictions and must not exceed a rate of 1 percent of the gross receipts from the sale of tangible personal property sold in the district. The district is prohibited from imposing any other tax measured by gross or net receipts on business, an ad valorem tax, a tax or charge that is assessed against people or vehicles as they enter or leave the region, and any tax, direct or indirect, on gaming tables and devices. Any such proposition must be submitted to the voters of the district and shall become effective upon approval of the voters voting on the proposition who reside in the State of California in accordance with the laws that apply within that state and approval of the voters voting on the proposition who reside in the State of Nevada in accordance with the laws that apply within that state. The revenues from any such tax must be used for the service for which it was imposed, and for no other purpose.
- (10) Provide service from inside the region to convenient airport, railroad and interstate bus terminals without regard to the boundaries of the region.
- (h) The legislatures of the states of California and Nevada may, by substantively identical enactments, amend this article.

ARTICLE X. Miscellaneous

- (a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in subdivision (c), the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining state and in full force and effect as to the state affected as to all severable matters.
- (b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other.
- (c) A state party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other state and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

(d) No provision of this compact shall have any effect upon the allocation, distribution or storage of interstate waters or upon any appropriative water right.

Credits

Added by Laws 1968, p. 4. Repealed by Laws 1979, p. 1133; amended by Laws 1979, p. 1135; Laws 1980 (14th ss), p. 1; [Laws 1997, c. 311, § 1](#); [Laws 2013, c. 424, § 1](#); [Laws 2017, c. 335, § 6](#), eff. Oct. 1. 2017.

Editors' Notes

CONDITIONAL PROVISIONS

<Upon proclamation by the governor that certain conditions have been met, amendments to NRS 277.200 enacted by Laws 2011, c. 530, and Laws 2019, c. 207, will become effective as detailed in the Historical and Statutory Notes which follow.>

[Notes of Decisions \(113\)](#)

N. R. S. 277.200, NV ST 277.200

Current through the end of the 80th Regular Session (2019)

West's Nevada Revised Statutes Annotated Title 22. Cooperative Agreements by Public Agencies; Regional Transportation Commissions; Planning and Zoning; Development and Redevelopment (Chapters 271-280) Chapter 277. Cooperative Agreements: State, Counties, Cities, Districts and Other Public Agencies (Refs & Annos) Tahoe Regional Planning Compact (Refs & Annos)

N.R.S. 277.207

277.207. Priority for hearings in judicial actions and proceedings

[Currentness](#)

All judicial actions and proceedings in which there may arise a question of the validity of any matter under the provisions of [NRS 277.190](#) to [277.220](#), inclusive, shall be advanced as a matter of immediate public interest and concern, and be heard at the earliest practicable moment.

Credits

Added by Laws 1971, p. 122. Amended by [Laws 1999, c. 121, § 2](#).

N. R. S. 277.207, NV ST 277.207

Current through the end of the 80th Regular Session (2019)

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West's Nevada Revised Statutes Annotated Title 22. Cooperative Agreements by Public Agencies; Regional Transportation Commissions; Planning and Zoning; Development and Redevelopment (Chapters 271-280) Chapter 277. Cooperative Agreements: State, Counties, Cities, Districts and Other Public Agencies (Refs & Annos) Tahoe Regional Planning Compact (Refs & Annos)

N.R.S. 277.210

277.210. Conflict of interest of member of governing body; penalties

Currentness

1. It is unlawful for any member of the governing body of the Tahoe Regional Planning Agency to be interested in any contract made by that member, or be a purchaser or be interested in any purchase of a sale made by that member in the discharge of his or her official duties.
2. All contracts made in violation of subsection 1 may be declared void at the instance of the Tahoe Regional Planning Agency, or of any other party interested in such contract, except the member prohibited from making or being interested in such contract.
3. Any person violating the provisions of this section, directly or indirectly, shall forfeit his or her office, and shall be punished by a fine of not more than \$1,000, or by imprisonment in the state prison for not more than 1 year, or by both fine and imprisonment.

Credits

Added by Laws 1968, p. 13.

N. R. S. 277.210, NV ST 277.210

Current through the end of the 80th Regular Session (2019)

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West's Nevada Revised Statutes Annotated Title 22. Cooperative Agreements by Public Agencies; Regional Transportation Commissions; Planning and Zoning; Development and Redevelopment (Chapters 271-280) Chapter 277. Cooperative Agreements: State, Counties, Cities, Districts and Other Public Agencies (Refs & Annos) Tahoe Regional Planning Compact (Refs & Annos)

N.R.S. 277.215

277.215. Violation of certain provisions of Code of Ordinances of Tahoe Regional Planning Agency: Peace officer authorized to take various actions; reporting of name and address of violator; exception

Currentness

1. Except as otherwise provided in subsection 3, every game warden, sheriff and other peace officer of this state and its political subdivisions may issue one or more of the following:

(a) Educational material provided by the Tahoe Regional Planning Agency;

(b) An oral advisory; or

(c) A warning citation,

to a person who violates, within the portion of the region that is within the waters of this state, section 54.16(A), 54.16(B) or 81.2(E) of the Code of Ordinances adopted by the Tahoe Regional Planning Agency and in effect on April 1, 1999.

2. A game warden, sheriff or other peace officer who issues a warning citation pursuant to subsection 1 shall report the name and address of the person to whom such warning was issued to the Tahoe Regional Planning Agency.

3. An agency that provides law enforcement or other public safety services is not subject to the provisions of section 54.16(A), 54.16(B) or 81.2(E) of the Code of Ordinances adopted by the Tahoe Regional Planning Agency and in effect on April 1, 1999, when performing its official duties during an emergency or disaster on the waters of Lake Tahoe if such duties are performed in an effort to protect life or property.

4. As used in this section:

(a) "Region" has the meaning ascribed to it in [NRS 277.200](#).

(b) "Waters of this state" means any waters within the territorial limits of this state.

Credits

Added by [Laws 1999, c. 121, § 1, eff. May 13, 1999](#).

West's Nevada Revised Statutes Annotated Title 22. Cooperative Agreements by Public Agencies; Regional Transportation Commissions; Planning and Zoning; Development and Redevelopment (Chapters 271-280) Chapter 277. Cooperative Agreements: State, Counties, Cities, Districts and Other Public Agencies (Refs & Annos) Tahoe Regional Planning Compact (Refs & Annos)

N.R.S. 277.220

277.220. Account for Tahoe Regional Planning Agency: Creation; source and use of money

Effective: July 1, 2019

[Currentness](#)

<2019 legislation subject to revision and classification by the Legislative Counsel Bureau>

1. The Account for the Tahoe Regional Planning Agency is hereby established in the State General Fund and consists of any money provided by direct legislative appropriation. Money in this Account must be expended for the support of, or paid over directly to, the Tahoe Regional Planning Agency in whatever amount and manner is directed by each appropriation or provided by law.

2. On or before February 28 of each year, the Tahoe Regional Planning Agency shall submit to the Governor and the Director of the Legislative Counsel Bureau:

(a) A copy of the report of the independent audit most recently prepared for the Tahoe Regional Planning Agency;

(b) A written report detailing:

(1) The nature and purpose of the expenditures made by the Tahoe Regional Planning Agency during the immediately preceding fiscal year from money appropriated to it by the Legislature; and

(2) The progress of the Tahoe Regional Planning Agency in achieving the performance measures and benchmarks included in its current biennial budget; and

(c) A copy of the annual report most recently published by the Tahoe Regional Planning Agency.

3. The Director of the Legislative Counsel Bureau shall cause copies of the materials submitted pursuant to subsection 2 to be transmitted to the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System created by [NRS 218E.555](#) and:

(a) In odd-numbered years, the Legislature.

(b) In even-numbered years, the Interim Finance Committee.

Credits

Added by Laws 1968, p. 13. Amended by Laws 1985, p. 714; [Laws 2013, c. 421, § 1, eff. July 1, 2013](#); [Laws 2019, c. 116, § 1, eff. July 1, 2019](#).

N. R. S. 277.220, NV ST 277.220

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End of Document

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CHAPTER 4: REQUIRED FINDINGS

4.1. PURPOSE

The Tahoe Regional Planning Compact requires TRPA to make findings before taking certain actions. In addition, the Regional Plan package, including the Code and plan area statements, sets forth other findings that must be made. This chapter sets forth procedures describing how TRPA shall make the findings required.

4.2. APPLICABILITY

Prior to approving any project or taking any other action specified in this Code, TRPA shall make the findings required by the provisions of the Regional Plan package, including the Goals and Policies, the Code, and specifically this chapter and any other requirement of law. All such findings shall be made in accordance with this chapter.

4.3. PROCEDURE FOR FINDINGS

Findings shall be made as provided below.

4.3.1. Written Findings

All required findings shall be in writing and shall be supported by substantial evidence in the record of review. The findings required by Section 4.4 shall be in writing prior to the approval of the proposed matter.

4.3.2. Statement

Required findings shall be accompanied by a brief statement of the facts and rationales upon which they are based.

4.4. THRESHOLD-RELATED FINDINGS

The following specific findings shall be made, pursuant to Articles V(c), V(g) and VI(b) of the Compact, in addition to any other findings required by law.

4.4.1. Findings Necessary to Approve Any Project

To approve any project TRPA shall find, in accordance with Sections 4.2 and 4.3, that:

- 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;
- B. The project will not cause the environmental threshold carrying capacities to be exceeded; and
- C. Wherever federal, state, or local air and water quality standards apply for the region, the strictest standards shall be attained, maintained, or exceeded pursuant to Article V(d) of the Tahoe Regional Planning Compact.

4.4.2. Making Specific Findings

As part of the findings required by subparagraph 4.4.1, TRPA shall:

- A. Identify the nature, extent, and timing or rate of effects of the project, using applicable measurement standards consistent with the available information, on all applicable:

2. Project Funding

Prior to the commencement of construction of any project which relies on the use of an additional height provision provided in subsection 37.5.9, the project applicant shall demonstrate, and TRPA shall find, for each project, that irrevocable commitments to fund the public benefit set forth in subparagraphs 37.5.9.C.6, 7 and 8 have been obtained or secured.

3. Project Completion

For each irrevocable commitment, the project applicant shall demonstrate, and TRPA shall find, sufficient evidence of intent and ability to complete development of the public benefit set forth in subparagraphs 37.5.9.C.6, 7 and 8.

37.6. HEIGHT STANDARDS FOR STRUCTURES OTHER THAN BUILDINGS

37.6.1. Maximum Structure Height

Except as provided for in subsection 37.6.2, no structure, other than a building, shall have a maximum height greater than 26 feet.

37.6.2. Additional Height for Certain Structures

The maximum height specified in subsection 37.6.1 may be increased for communication towers, antennas, utility poles, special features of public safety facilities, ski lift towers, wind turbines/renewable power facilities, and other similar projects, excluding buildings and signs, up to the minimum height necessary to feasibly implement such projects. Additional height may be approved under the provisions of this subsection if TRPA makes findings 4 and 7 as set forth in Section 37.7.

37.7. FINDINGS FOR ADDITIONAL BUILDING HEIGHT

The findings required in this chapter are as follows:

37.7.1. Finding 1

When viewed from major arterials, scenic turnouts, public recreation areas, or the waters of Lake Tahoe, from a distance of 300 feet, the additional height will not cause a building to extend above the forest canopy, when present, or a ridgeline. For height greater than that set forth in Table 37.4.1-1 for a 5:12 roof pitch, the additional height shall not increase the visual magnitude beyond that permitted for structures in the shoreland as set forth in subsection 66.3.7, Additional Visual Magnitude, or Appendix H, Visual Assessment Tool, of the Design Review Guidelines.

37.7.2. Finding 2

When outside a community plan, the additional height is consistent with the surrounding uses.

37.7.3. Finding 3

With respect to that portion of the building that is permitted the additional height, the building has been designed to minimize interference with existing views within the area to the extent practicable.

37.7.4. Finding 4

The function of the structure requires a greater maximum height than otherwise provided for in this chapter.

37.7.5. Finding 5

The portion of the building that is permitted additional building height is adequately screened, as seen from major arterials, the waters of lakes, and other public areas from which the building is frequently viewed. In determining the adequacy of screening, consideration shall be given to the degree to which a combination of the following features causes the building to blend or merge with the background.

- A.** The horizontal distance from which the building is viewed;
- B.** The extent of screening; and
- C.** Proposed exterior colors and building materials.

37.7.6. Finding 6

The building that is permitted additional building height is located within an approved community plan or Ski Area Master Plan that identifies the project area as being suitable for the additional height being proposed.

37.7.7. Finding 7

The additional building height is the minimum necessary to feasibly implement the project and there are **no feasible alternatives** requiring less additional height.

37.7.8. Finding 8

The maximum building height at any corner of two exterior walls of the building is not greater than 90 percent of the maximum building height. The maximum height at the corner of two exterior walls is the difference between the point of lowest natural ground elevation along an exterior wall of the building, and point at which the corner of the same exterior wall meets the roof. This standard shall not apply to an architectural feature described as a prow.

37.7.9. Finding 9

When viewed from a TRPA scenic threshold travel route, the additional building height granted a building or structure shall not result in the net loss of views to a scenic resource identified in the 1982 Lake Tahoe Basin Scenic Resource Inventory. TRPA shall specify the method used to evaluate potential view loss.

37.7.10. Finding 10

The building is no more than two stories above grade (excluding basement) in height.

37.7.11. Finding 11 (Specification of Special Height Districts in Adopted Redevelopment Plans)

Special height districts may be specified in adopted redevelopment plans if TRPA makes the following findings:

- A.** The area is within 2,300 feet of the center point of three or more buildings exceeding the height of 150 feet;
- B.** The special height district provides a transition of height from the high-rise area to the surrounding area of lower permissible heights;
- C.** The projects within the special height district utilize transit/pedestrian-oriented development principles including, but not limited to, major transit facilities,

6.10.090 Purpose – Intent – Applicability.

A. Purpose. The scenic beauty of the Lake Tahoe Region has been recognized as a national treasure through many eyes, including those of the U.S. Congress. The visual quality of the natural landscape is the primary contributor. National treasure status has afforded the region unparalleled stewardship. The concept of stewardship carries through to the design and development of the built environment and the way it fits into the natural setting becomes critical. This Manual of Design Standards and Guidelines represents a concerted effort to keep this area a national treasure while accommodating the sensitive development and use of land.

B. The Intent. The city-wide design standards relate to the aesthetic considerations of project development. There are other codes, i.e., the Plan Area Statements and Other Land Use Regulations or the TRPA Code, that will outline the parameters which you are entitled to use in developing your property. These standards will tell you how to aesthetically and sensitively refine those parameters into a project that will fit into the natural setting.

C. Applicability. For the city of South Lake Tahoe, the standards presented in this document replace the “South Lake Tahoe Design Guide,” April 20, 1971, as well as the TRPA design standards and guidelines contained within the TRPA Code of Ordinances, Chapter 30, or as may be amended.

In general, the standards contained in this chapter are to be applied to new construction, major remodeling, more specifically:

1. All newly constructed or exterior remodeled buildings or structures proposed for any use other than single-family residential units.
2. Newly constructed or exterior remodeled residential units or structures which are located within 200 feet of the high water line of the lake.
3. All prefabricated or factory-built buildings or structures.
4. All existing buildings or structures to be relocated within the city, regardless of proposed use.
5. Any structure proposed or located within a flood plain as defined within the City Code.
6. New or modified parking areas containing four or more parking spaces.

7. Other proposals without buildings or structures which may potentially affect the general appearance of the city, including public projects, such as erosion control projects.

a. Exceptions. The above projects are required to comply with all the design standards contained within this chapter as a part of their project approval, with the following exceptions:

i. Projects for which the cost of public improvements may be prohibitive, based on a case-by-case review, may submit schedules for compliance. Depending on the magnitude of the improvements, the maximum schedule for completion shall be five years.

ii. Projects which are in assessment districts (or are contained in approved public works projects) which are committed to implement the public improvements.

iii. Projects for which the city has found the standard not to be applicable as a result of the city variance process (SLTCC 6.55.620). The city shall consult with the TRPA regarding exceptions and **required TRPA findings**, including **those which may affect the scenic thresholds on Highway 50, 89 and Pioneer Trail**. (Note: the TRPA cannot approve a variance to a scenic threshold if it affects the scenic threshold rating).

iv. Exterior remodeled structures shall only be required to comply with those standards which are directly affected by the construction.

v. Modifications to driveway width and placement requirements may be made for industrial projects where large truck maneuvers require wider driveways in order to provide safe turning maneuvers and adequate circulation. Evidence provided by a licensed traffic engineer shall demonstrate the need for the exception and that the exception will improve safety and circulation.

b. Approval Process. All projects subject to review shall be submitted to the planning division. If the project is environmentally categorically exempt, the applicant decides if the planning staff or planning commission will approve the project. If the project requires an environmental negative declaration or an EIR/EIS (each of which requires a public hearing), the applicant decides if the zoning administrator or the planning commission will approve the project. See city planning fee schedule.

c. Appeals. Should an applicant not agree with the city planning commission they may appeal that decision pursuant to Chapter 2.35 SLTCC.

d. Organization. The design standards are laid out to identify what the project is required to include as a part of its design. These requirements are designated as “standards” and are mandatory.

The standards are divided into two main groups: 1) the city-wide design standards, and 2) the community plan design standards. All projects must comply with the city-wide standards and if the project is within one of the three community plans (Stateline/Ski Run, Bijou/Al Tahoe, and the WYE/Industrial), it must also comply with those standards. (Ord. 903; Ord. 985 § 1; Ord. 1105 § 1 (Exh. B). Code 1997 § 5-17)

6.55.010 Purpose.

As set forth in the general plan, the plan area statements provide detailed plans and policies for specific areas of the city. The plan area’s written text and maps, as well as the other land use regulation’s written text, provide specific land use policies and regulations for a specific planning area. Each planning area is depicted on the plan area maps.

The plan area statements and other land use regulations are adopted to **promote and protect** the public health, safety, peace, comfort, convenience, general welfare and **environment**, natural and manmade. (Ord. 902; Ord. 1060 § 1 (Exh. A). Code 1997 § 32-1)

6.55.620 Granting of use permits.

A. Authority. The zoning administrator or the planning commission may, with the procedure specified in SLTCC 6.55.640, grant a use permit to authorize a special use and structure devoted to such use, on a specific parcel within a plan area; provided, that such use is allowed by use permit.

B. **Required Findings**. The zoning administrator or the planning commission may grant a use permit; provided, that it is found that the use applied for is:

1. **Necessary or desirable on a specific parcel;**
2. **Not injurious to the neighborhood;**
3. Consistent with the intent of this chapter; and
4. Consistent with the permitted uses in such plan area. (Ord. 902. Code 1997 § 32-60)

Policy PQP-7.6: Expansion of Lake Tahoe Community College

The City shall support the expansion of curriculum, enrollment, and facilities at the Lake Tahoe Community College (e.g., four-year degree program, fire academy).

ENERGY AND TELECOMMUNICATIONS

Sierra Pacific Power provides electrical service and Southwest Gas provides gas service to South Lake Tahoe. Both companies offer programs to encourage energy efficiency. The City recognizes the need to shift away from reliance on non-renewable sources of energy and move toward a “green” energy future. The policies in this section seek to increase energy efficiency, reduce emissions, and support local, clean, and renewable energy sources. Additional policies in this section promote telecommunications access for all residents.

**Goal
PQP-8**

To promote provision of adequate levels of utility services by private companies and to ensure that these are constructed in a fashion that minimizes their negative effects on surrounding development and maximizes energy efficiency.

Policy PQP-8.1: Development and Remodel Coordination

The City shall communicate its major development and infrastructure plans with utility companies and coordinate planning to ensure adequate and timely utility connections.

Policy PQP-8.2: Underground Utility Requirement

The City shall continue to require underground installation of electrical distribution utility lines in new and substantially remodeled projects as a condition of permit approval, except where infeasible for operational reasons.

Policy PQP-8.3: Promote Technology

The City shall promote technological improvements and upgrading of utility services in South Lake Tahoe.

Policy PQP-8.4: Coordination with Utility Providers

The City shall coordinate with gas and electricity service providers to site and design gas and electric systems to minimize environmental, aesthetic, and safety impacts to existing and future residents.

Policy PQP-8.5: Digital Communications Infrastructure

The City shall facilitate installation of digital communications infrastructure.

Policy PQP-8.6: Long-Range Public Utility Underground Program

The City shall continue to maintain and implement the City’s Long-Range Public Utility Underground Program in close coordination with utility companies.



Natural and Cultural Resources Element

INTRODUCTION

This element provides the policy context for the City of South Lake Tahoe to achieve its vision for future natural and cultural resource protection. South Lake Tahoe is part of a unique natural and cultural environment. The city's many resources contribute to its economy and are important elements in the quality of life of South Lake Tahoe's residents. The preservation of these resources is essential for a prosperous and sustainable future. The Natural and Cultural Resources Element focuses on the preservation and enhancement of scenic, water, biological, historical and cultural, and mineral resources. The Element also addresses issues of air quality, global warming, and climate change. Goals and policies are organized under the following headings:

- Scenic Resources
- Hydrological Resources
- Biological Resources
- Archeological, Historical, and Cultural Resources
- Air Quality
- Global Warming and Energy Conservation

NATURAL AND CULTURAL RESOURCES VISION

The following is the City of South Lake Tahoe's vision for future natural and cultural resources:

"In 2030 South Lake Tahoe is a model community for its efforts to reduce greenhouse gas emissions, promote energy efficiency and sustainability, improve the health of the forest, improve air quality, and improve Lake Tahoe's water clarity and restoration. In addition to achieving regional Environmental Thresholds, South Lake Tahoe has been successful at meeting the needs of its residents while not compromising the ability of future generations to meet their own needs. The City is a leader in implementing sustainable policies and programs that have helped maintain and enhance the beauty of Lake Tahoe and the Tahoe Basin."

SCENIC RESOURCES

Scenic quality is one of South Lake Tahoe's most apparent natural resources. Views of Lake Tahoe, mountains, and forests can be seen throughout the city. The policies in this section protect the scenic quality of South Lake Tahoe's natural environment by maintaining and restoring scenic qualities, and improving visual accessibility of Lake Tahoe.

**Goal
NCR-1**

To protect and enhance the visual connection of South Lake Tahoe's and the Lake Tahoe Basin's scenic resources.

Policy NCR-1.1: View Corridors and Passive Open Space

The City shall use stream environment zone restoration and storm drainage basins to create view corridors and passive recreation open space, particularly to help relieve the strip commercial character of major roadways.

Policy NCR-1.2: Scenic Resource Design

The City shall require that siting and design of public and private spaces and buildings to protect, improve, and enhance the scenic quality of the built and natural environment and take full advantage of scenic resources through site orientation, building setbacks, preservation of viewsheds, and height limits.

Policy NCR-1.3: Class I Bike Trail Design Standards

The City shall require the design of Class I bike trails along the Lake Tahoe shoreline to not include large graded cut and fill areas that are visible from the Lake, tall vertical elements such as fences and barriers that are visible from the Lake and all vertical elements shall be made of natural materials that blend with the surroundings. Class I bike trails shall be designed to visually blend with the natural conditions and features so that the trail does not dominate views.

Policy NCR-1.4: Views of Lake Tahoe

The City should ensure that views of Lake Tahoe from vantage points along public streets or public areas are not be blocked by development. Any impairment or partial obstruction of these views from new development shall be the minimum necessary to allow reasonable development.

Policy NCR-1.5: Lake, Beach, and Vista Point Access

The City shall create more access to and better facilities at Lake Tahoe, public beaches, and vista points to better serve residents and visitors.

Policy NCR-1.6: Scenic Enhancements

The City shall encourage relocation of structures that encroach on meadows, floodplains, and stream environment zones (SEZ) in order enhance scenic viewsheds.

HYDROLOGICAL RESOURCES

South Lake Tahoe is located at the edge of Lake Tahoe, an alpine lake of great natural beauty and environmental value. Careful consideration of the relationship between water quality and water quantity is needed in light possible future water shortages due to drought and global climate change, and **potential contamination of some water supplies by toxic substances**. The policies in this section seek to protect South Lake Tahoe's hydrological resources.

**Goal
NCR -2**

To protect and enhance the clarity of Lake Tahoe and water quality in the area's rivers, creeks, and groundwater.

Policy NCR-2.1: Stormwater Runoff Retention

The City shall require new projects and, working with TRPA, encourage existing developed properties to retain runoff onsite wherever physically possible and economically efficient or, if not possible or efficient, to contribute to the construction and long-term maintenance of off-site water quality measures.

Policy NCR-2.2: Hazardous Materials

The City shall ensure hazardous materials do not reach Lake Tahoe ,any of its tributaries, or contaminate Stream Environment Zones or groundwater resources.

Policy NCR-2.3: Stormwater Quality Management Improvement

The City shall improve stormwater quality management by including, along with other proven options, the use of swales and natural treatment systems and integration of runoff into functional design elements and public art. The City shall also incorporate the latest technologies for water quality treatment facilities into restoration efforts.

Policy NCR-2.4: "Green" Streets

The City shall investigate "green" streets as an option for improving water quality and enhancing watershed health.

Policy NCR-2.5: Pervious Materials in Parking Areas

The City shall explore the use of pervious materials for parking areas and test on some street sections. The City shall incorporate pretreatment features as part of the use of pervious materials in order to protect groundwater quality.

Policy NCR-2.6: Water Quality Improvements and Neighborhood Character

The City shall respect neighborhood character when planning and implementing water quality improvements.

Policy NCR-2.7: Water and Wastewater Management Strategy

The City shall coordinate with STPUD and other water purveyors to develop an innovative water and wastewater management strategy that considers sustainable water supply and treatment systems.

Policy NCR-2.8: Industrial and Commercial Area Protection

The City shall protect industrial and commercial areas from accidental hazardous spills or industrial site/process discharges. To this end, the City shall incorporate appropriate water protection and site-specific best management practices including pretreatment technologies, and require as part of the project review process where appropriate.

Policy NCR-2.9: Land Dedication in 100-Year Floodplains

The City shall require property owners and developers to dedicate land within 100-year floodplains, conservation easements, and Stream Environment Zones (SEZ) to the City or other City-designated entity when a development project is approved.

Policy NCR-2.10: Water Pollution Education

The City shall continue to support efforts to inform the public about practices and programs to minimize water pollution.

Policy NCR-2.11: Marina Redevelopment and Expansion

The City shall ensure that redevelopment or expansion of existing marinas do not result in adverse environmental or shore-zone conditions at Lake Tahoe.

Policy NCR-2.12: Incentives to Remove Property from Stream Environment Zones and 100-Year Floodplains

The City shall provide incentives to remove public and private development from Stream Environment Zones and 100-year floodplains in order to reduce drainage problems and damage to public and private property.

Policy NCR-2.13: Minimize the Use of Fertilizers and Pesticides

The City shall implement or support education programs to inform the public and encourage behavior to reduce water pollution caused by excessive use of irrigation, fertilizers and pesticides.

Policy NCR-2.14: Pollutant Load Reduction Prioritization

The City shall prioritize water quality improvement projects based primarily on their ability to reduce pollutant loads. Higher pollutant loading rate land uses include roadways, commercial, industrial, and multi-family uses.

BIOLOGICAL RESOURCES

The biological resources in South Lake Tahoe are varied and abundant. Consequently, numerous special-status plant and wildlife species are found in South Lake Tahoe. The policies in this section preserve and protect biological resources and biodiversity, and encourage healthy habitats.

**Goal
NCR -3**

To protect, restore, and enhance biological habitats and wildlife species in South Lake Tahoe.

Policy NCR-3.1: Natural Habitat Preservation

The City shall protect, maintain, and restore key riparian areas, natural open space meadows, and Stream Environment Zones for the preservation of natural habitats.

Policy NCR-3.2: Large Scale Development Adjacent to Stream Environment Zones

The City shall minimize the impacts to Stream Environment Zones (SEZ) and sensitive habitat areas from adjacent new large-scale developments.

Policy NCR-3.3: Vegetation Preservation

The City shall preserve as much vegetation as possible on site and require revegetation for all proposed development as a condition of approval, so long as it does not conflict with adequate fire abatement.

Policy NCR-3.4: Natural Growth Protection

The City shall limit the extent of construction to provide a natural growth zone for vegetation.

Policy NCR-3.5: Neighborhood Design and the Natural Environment

The City shall design neighborhoods, sites, and buildings to help improve the natural environment.

Policy NCR-3.6: Stream Environment Zone (SEZ) Restoration and Enhancement

The City shall increase the area of naturally functioning SEZs by preserving existing SEZ and restoring/rehabilitating disturbed SEZ.

Policy NCR-3.7: “Green” Building

The City shall encourage “green” building features be incorporated into the design, construction, and operation of new construction and major renovations.

Policy NCR-3.8: Bear-Proof Trash Receptacles

The City shall require the installation of bear-proof trash receptacles in new developments, at public facilities, and at public gathering spaces and parks.

Policy NCR-3.9: Wildlife Awareness and Safety Program

The City shall develop and implement a coyote, mountain lion, beaver, and bear awareness and safety program.

Policy NCR-3.10: Stream Environment Zone Management

City shall consider stream stability, water quality objectives, fisheries and wildlife, open space, and public health and safety in maintaining or managing Stream Environment Zone (SEZ) restoration projects.

Policy NCR-3.11: Natural Habitat and Open Space Management

The City shall encourage and support public agencies formed to acquire and manage important natural habitat areas, and other open space lands.

Policy NCR-3.12: Tree Preservation

The City shall adopt a tree preservation ordinance that protects large native trees, trees with historic importance, and trees that support sensitive species and healthy forest habitat.

Policy NCR-3.13: Improving Wildlife Habitat Values

The City shall encourage the use of native or compatible non-native, non-invasive plant species as part of project landscaping to improve wildlife habitat values.

Policy NCR-3.14: Diseased Tree Removal

The City shall support awareness and removal of diseased trees to reduce the threat of urban fires.

Policy NCR-3.15: Preventing the Spread of Quagga and Zebra Mussels

The City shall support efforts to prevent the spread of the invasive Quagga and Zebra mussels into Lake Tahoe.

Policy NCR-3.16: New Development and Lake Tahoe Interactions

The City shall ensure that new development does not negatively impact beach erosion, prime fish habitat, water quality and clarity, and public needs.

ARCHEOLOGICAL, HISTORIC, AND CULTURAL RESOURCES

South Lake Tahoe has a diverse archeological and cultural history. Preservation of historic and cultural resources is important to the city's identity, and having these distinct and identifiable places tend to make the community more enjoyable places for residents and more attractive to visitors. The policies in this section seek to protect and enhance the historical and cultural amenities in South Lake Tahoe.

**Goal
NCR -4**

To preserve and maintain sites and structures that serve as significant, visible connections to South Lake Tahoe's social, cultural, and architectural history.

Policy NCR-4.1: Significant Site Preservation

The City shall preserve sites of historical, cultural and architectural significance within the city, consistent with the Secretary of the Interior Standards for Treatment of Historic Properties.

Policy NCR-4.2: Historic Landmark Designation

The City shall designate structures or sites having special character or special historic, architectural, or aesthetic interest or value as local historic landmarks. The City shall protect local historic landmarks from demolition and inappropriate alterations, and develop criteria for evaluating the appropriateness for sites or structures to be designated as local historic landmarks, and provide incentives for preservation of local historic landmarks.

Policy NCR-4.3: Archeological Investigations

The City shall require archeological investigations for all applicable discretionary projects, in accordance with CEQA regulations, for areas not previously surveyed and/or that are determined sensitive for cultural resources (e.g., undeveloped parcels near water features). The City shall require the preservation of discovered archeologically-significant resources (as determined based on TRPA, State, and Federal standards by a qualified professional) in place if feasible, or provide mitigation (avoidance, excavation, documentation, curation, data recovery, or other appropriate measures) prior to further disturbance.

Policy NCR-4.4: Paleontological Resource Evaluation

The City shall require that a paleontological resources evaluation be prepared and measures to mitigate impacts to paleontological resources be identified (avoidance, preservation in place, excavation, documentation, and/or data recovery) when fossils are discovered during ground-disturbing activities.

Policy NCR-4.5: Human Remains Discovery

The City shall require/condition projects and other ground disturbance activities to notify the City if human remains are discovered and halt work. The County Coroner will be notified according to Section 5097.98 of the State Public Resources Code and Section 7050.5 of California's Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in CEQA Section 15064.5(d) and (e) shall be followed.

AIR QUALITY

South Lake Tahoe is located within the Lake Tahoe Air Basin (LTAB). Air quality concerns within the LTAB are predominantly associated with adverse effects on human health, distance visibility, Lake Tahoe water clarity, and forest health. Primary factors known to influence air quality within the LTAB include topography and climate, which can affect pollutant transport and dispersion from sources located within and outside of the LTAB. Additional air quality concerns within the Basin relate to the exposure of sensitive receptors to localized pollutant concentrations, including airborne concentrations of odors and toxic air

contaminants (TACs), as well as increases in greenhouse gas emissions. The policies in this section seek to improve air quality by reducing the number of vehicles on the roadways and encouraging walking, biking, and use of public transit.

**Goal
NCR -5**

To incorporate air quality improvements and emission reductions directly with land use and transportation planning.

Policy NCR-5.1: Pedestrian and Bicycle Facilities

The City shall encourage the use of alternative modes of transportation by encouraging public transit, neighborhood electric vehicles, bicycle, and pedestrian modes in City transportation planning and by requiring new development to provide safe and separate pedestrian circulation and adequate bikeway circulation and facilities.

Policy NCR-5.2: Employer Programs

The City shall encourage employers in South Lake Tahoe to provide bicycle facilities, alternative work schedules, ridesharing, telecommuting, work-at-home programs, employee education (including information on alternatives to single-occupancy travel), preferential parking for carpools/vanpools, and alternative transportation mode subsidies.

Policy NCR-5.3: City Fleet Vehicles

The City shall replace City fleet vehicles with lowest emission technology vehicles, wherever possible.

Policy NCR-5.4: Public Transit Bus Fleet

The City shall encourage the use of low-emission technology buses in the public transit fleet.

Policy NCR-5.5: Traffic Calming Measures

The City shall install traffic calming measures where there is demonstrated need and neighborhood resident support (e.g., traffic circles, curb extensions, and median islands).

Policy NCR-5.6: Off-Peak Deliveries

The City shall encourage business owners to schedule deliveries at off-peak traffic hours.

Policy NCR-5.7: Child Safety Programs

The City shall support infrastructure and programs that encourage children to walk or ride a bicycle safely to school.

Policy NCR-5.8: Bicycle, Pedestrian, and Bus Transit Integration

The City shall encourage interconnected bicycle, pedestrian, and bus transit circulation in the design of all commercial, industrial, and multi-family housing.

Policy NCR-5.9: Mixed-Use Development

The City shall support appropriately located mixed-use developments that include homes, schools, civic uses, retail and commercial services, and daycare facilities within walking distance of each other.

Policy NCR-5.10: Air Quality-Related Construction Mitigation

The City shall require discretionary projects that have a significant air quality impact to provide construction mitigation to address short-term construction emissions below EDCAQMD thresholds as part of the review of the project application. This excludes building permits for single-family residential units. This may include the following measures:

- a. Measures currently recommended by the EDCAQMD;
- b. Prohibition of open burning of debris from site clearing unless involved with a fuels reduction project;
- c. Utilization of low-emission construction equipment and/or fuels;
- d. Implementation of best management practices in concert with water quality protection measures; and/or
- e. Restriction of idling of construction equipment or vehicles;

Policy NCR-5.11: Development Project Design Requirements

The City shall impose the following requirements on development projects as part of project design to address air quality impacts:

- a. Prohibit the installation of wood-burning hearth devices in proposed residential dwelling units;
- b. Require that all feasible EDCAQMD-recommended mitigation measures to reduce operational emissions of criteria air pollutants are incorporated into project design; and
- c. Demonstrate compliance with applicable TRPA requirements for air quality mitigation at the time of project consideration that require off-set project and cumulative air quality impacts (e.g., current TRPA Code of Ordinances Chapters 91 [Air Quality Control] and Chapter 93 [Traffic and Air Quality Mitigation Program]).

Policy NCR-5.12: Greenhouse Gas Emission Reductions Support

The City shall support local, TRPA, and statewide efforts to reduce emission of greenhouse gases linked to climate change.

Policy NCR-5.13: Citywide Greenhouse Gas Emission Inventory

The City shall develop a citywide greenhouse gas emission inventory and establish regular time frames for updating the inventory.

Policy NCR-5.14: Greenhouse Gas Emission Reduction Target

The City shall establish a greenhouse gas emission reduction target consistent with AB 32 and SB 375 reduction efforts.

Policy NCR-5.15: Carbon Emission Analysis and Mitigation

The City shall analyze and mitigate significant increases in carbon emissions during project review pursuant to the California Environmental Quality Act.

GLOBAL WARMING AND ENERGY CONSERVATION

Emissions of greenhouse gases into the atmosphere by human activities, predominantly resulting from the burning of fossil fuels, is increasing the potency of the greenhouse effect and leading to global climate change. Not only is there a concern for worldwide impacts, but there are also new and emerging legal and regulatory issues that local governments in California must address. The most important of these is Assembly Bill 32. Passed in 2006, this law requires local governments to inventory greenhouse emissions. The policies in this section encourage energy conservation that leads to lowering South Lake Tahoe's carbon footprint.

**Goal
NCR -6**

To encourage energy conservation in new and existing developments in order to reduce greenhouse gas emissions, limit their effect on global warming, and to create a more sustainable environment.

Policy NCR-6.1: Decreasing Reliance on Non-Renewable Energy Sources

The City shall shift away from reliance on non-renewable sources, should emerging research show net environmental benefits in the use of bio-fuel.

Policy NCR-6.2: Greenhouse Gas Emission Reduction Strategy

The City shall develop a comprehensive strategy to reduce GHG emissions and climate impacts.

Policy NCR-6.3: Local, Clean, and Renewable Energy Support

The City shall increase energy efficiency, reduce emissions and support local, clean, and renewable energy sources.

Policy NCR-6.4: Increasing Economic Efficiency and Performance

The City shall increase economic efficiency and performance by **reducing the consumption** of nonrenewable resources.

Policy NCR-6.5: Creating Environmental Impact Action Tools

The City shall identify action items for residents and businesses that **improve energy efficiency and reduce environmental impact.**

Policy NCR-6.6: “Green” Building Credits and Incentives

The City shall develop credits and incentives for “green” building construction.

Policy NCR-6.7: LEED Certified Public Buildings

The City shall develop all new City buildings to meet LEED standards.

Policy NCR-6.8: Building Design and Components

The City shall encourage use of cost-effective and innovative emission-reduction technologies in building components and design.

Policy NCR-6.9: Sustainable Design

The City shall promote the use of sustainable design strategies for “cool communities” such as reflective roofing and light colored pavement.

Policy NCR-6.10: Renewable Energy Incentive Programs

The City shall encourage voluntary participation in programs to increase the use of renewable energy.

Policy NCR-6.11: Solar Photovoltaic System Program

The City shall promote voluntary participation in programs to increase the use of solar photovoltaic systems in new and existing residential, commercial, institutional, and public buildings.

Policy NCR-6.12: Solar Photovoltaic System Incentives

The City should explore offering incentives (e.g., expedited processing and fee reductions/waivers) to property owners and developers who exceed State Title 24 energy efficiency standards.

Policy NCR-6.13: Residential Rehabilitations and Improvements

The City shall encourage the rehabilitation and improvement of existing single-family homes and multi-family homes to achieve greater energy efficiency.

Policy NCR-6.14: EPA Energy Star Certified Appliances

The City shall encourage the use of “EPA Energy Star” certified appliances (e.g., water heaters, swimming pool heaters, cooking equipment, refrigerators, furnaces and boiler units) for new private development and public facilities, where feasible.

Policy NCR-6.15: Expedited Review for Installing Photovoltaic Systems

The City should reduce/remove the building review fee, use a standardized submittal procedure, and provide an expedited application review process for installing photovoltaic systems.

Policy NCR-6.16: Waste Diversion Plan

The City should require developers of commercial, industrial, and multi-family projects to prepare a waste diversion plan to recycle at least 50 percent of the materials generated for discard by their project during the construction phase. The waste diversion and recycling plan shall use best management practices in order to

achieve the recycling target. The plan shall be subject to City's Community Development Department review and approval.

Policy NCR-6.17: City Employee Education Programs

The City shall implement programs to train and educate City employees on energy conservation measures, subject to available funding.

Policy NCR-6.18: Energy Efficient City Facilities

The City shall replace existing traffic lights, street lights, and other electrical uses with energy efficient bulbs and appliances in the course of ongoing maintenance/replacement.

Policy NCR-6.19: Financing Sustainable Energy Practices

The City should evaluate opportunities for supporting new programs and promoting sustainable energy practices through financing mechanisms, such as pooled project funding, low-interest loans and State funds earmarked for energy efficiency and renewable energy. Additionally, the City should work with energy providers and State and Federal agencies to secure tax exemptions and tax rebates for residential energy performance improvements.

Policy NCR-6.20: Protection from Climate Change

The City shall develop strategies to protect the city from the impacts of climate change, such as reduced snow pack, lower lake levels, and natural disasters.

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LAKEVIEW HEIGHTS

PLAN DESIGNATION:

Land Use Classification	RESIDENTIAL
Management Strategy	MITIGATION
Special Designation	NONE

DESCRIPTION:

Location: This area is located above Pioneer Trail by the Heavenly Valley Ski Area on TRPA maps H-17 and H-18.

Existing Uses: This area contains a mixture of residential uses such as single family dwellings, apartments, and condominiums. There are some isolated commercial uses and a large timeshare project. The area is 65 percent built out.

Existing Environment: The land is classified as 50 percent high hazard, 35 percent moderate hazard and the rest SEZ. The land coverage is 20 percent plus an additional 25 percent disturbed.

PLANNING STATEMENT: This area should continue as residential area, maintaining the existing character of the neighborhood.

PLANNING CONSIDERATIONS:

1. Some areas are not up to minimal BMP standards.
2. The legal status of the Powderhorn Subdivision is unresolved.
3. There are traffic and parking problems in the areas adjacent to Heavenly Valley and Tahoe Seasons Resort.
4. Two sites included in the City of South Lake Tahoe's Open Space and Community Park Plan are in this area.
5. The proposed alignment for the Montreal extension passes through this area.
6. This area is affected by drainage problems originating adjacent to the Heavenly Valley Ski Area parking lot.

SPECIAL POLICIES:

1. The Caltrans right-of-way should be maintained for future transportation needs.
2. Support continuation of public transit services to this area.
3. Preserve the areas of open space identified in the City of South Lake Tahoe's Open Space and Community Park Plan.

4. Projects proposed within this Plan Area shall be required to mitigate existing noise, traffic, and parking problems near the Heavenly Valley Ski Area. Such mitigation and remedial action shall be coordinated with the adjoining Plan Area 087.
5. No new development shall be permitted in the Powderhorn Subdivision until the status of the subdivision is determined
6. Commercial, tourist accommodation or residential uses on parcels abutting the Montreal Road Extension right-of-way shall not be permitted access to the Montreal Road Extension, except for new single family residences which have no alternative access. New commercial and tourist accommodation uses or signage, abutting the Montreal Road Extension, shall be restricted consistent with the limited access design of the Montreal Road Extension.

PERMISSIBLE USES: Pursuant to Chapter 18 PERMISSIBLE USES and if applicable, Chapter 51 PERMISSIBLE USES AND ACCESSORY STRUCTURES IN THE SHOREZONE AND LAKEZONE, the following primary uses may be permitted within all or a portion of the Plan Area. The list indicates if the use is allowed (A) or must be considered under the provisions for a special use (S). Existing uses not listed shall be considered nonconforming uses within this Plan Area. The establishment of new uses not listed shall be prohibited within this Plan Area.

General List: The following list of permissible uses is applicable throughout the Plan Area (except as noted in a Special Area #1):

Residential	Single family dwelling (A).
Public Service	Local public health and safety facilities (S), transit stations and terminals (S), pipelines and power transmission (S), transmission and receiving facilities (S), transportation routes (S), public utility centers (S), churches (S), local post offices (S), and local assembly and entertainment (S).
Recreation	Participant sports facilities (S), day use areas (A), and riding and hiking trails (A).
Resource Management	Reforestation (A), sanitation salvage cut (A), special cut (A), thinning (A), early successional stage vegetation management (A), structural and nonstructural fish/wildlife habitat management (A), fire detection and suppression (A), fuels treatment/management (A), insect and disease suppression (A), sensitive and uncommon plant management (A), erosion control (A), SEZ restoration (A), and runoff control (A).

Special Area #1: The following list of permissible uses is applicable in Special Area #1.

All the uses listed on the General List plus the following additions:

Residential	Multiple family dwellings (A) and residential care (S).
Tourist Accommodation	Timeshare (motel/hotel design) (A) and timeshare (residential design) (A).
Commercial	Eating and drinking places (S).

MAXIMUM DENSITIES: Pursuant to Chapter 21 DENSITY, the following list establishes the maximum allowable densities that may be permitted for any parcel located within the Plan Area. The actual development permitted may be further limited by transfer of development rights limitations, residential density incentive program, special use determinations, allocation limitations and general site development standards.

USE	MAXIMUM DENSITY
Residential	
Single Family Dwelling	1 unit per parcel
Multiple Family Dwellings	15 units per acre
Residential Care	25 persons per acre
Tourist Accommodation	
Timeshare	As per the limitations set forth in this table

RESIDENTIAL BONUS UNITS: Pursuant to Chapter 35, the maximum number of residential bonus units which may be permitted for this Plan Area is 0 units.

MAXIMUM COMMUNITY NOISE EQUIVALENT LEVEL: The maximum community noise equivalent level for this Plan Area is 55 CNEL.

ADDITIONAL DEVELOPED OUTDOOR RECREATION: The following are the targets and limits for additional developed outdoor recreation facilities specified in Chapter 13 to be located within this Plan Area. Specific projects and their timing are addressed in the TRPA Five-Year Recreation Program pursuant to Chapter 33 Allocation of Development. The following additional capacities allowed are measured in persons at one time.

SUMMER DAY USES **0 PAOT** WINTER DAY USES **0 PAOT** OVERNIGHT USES **0 PAOT**

IMPROVEMENT PROGRAMS: The capital improvement and other improvement programs required by the Regional Goals and Policies Plan for this area shall be implemented. The improvements include, but are not limited to, the following:

1. Improvements required by the Surface Water Management Plan as shown on Figure VIII-1 through 18 of Volume I of the 208 Water Quality Plan.
2. The highway and transit improvements indicated in the Transportation Element of the Regional Goals and Policies Plan.
3. Stream zone restoration as indicated in the Stream Environment Zone Restoration Program. (To be completed.)

