

TAHOE REGIONAL PLANNING AGENCY  
GOVERNING BOARD

GoToWebinar

September 22, 2021

**Meeting Minutes**

I. CALL TO ORDER AND DETERMINATION OF QUORUM

Chair Mr. Bruce called the meeting to order at 11:21 a.m.

Members present: Ms. Aldean, Mr. Bruce, Mrs. Cegavske, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Mr. Hicks, Ms. Hill, Mr. Lawrence, Ms. Novasel, Mr. Rice, Ms. Williamson, Mr. Yeates

II. PLEDGE OF ALLEGIANCE

Ms. Hangeland led the pledge.

III. APPROVAL OF AGENDA

Mr. Bruce deemed the agenda approved as posted.

IV. APPROVAL OF MINUTES

None.

V. TRPA CONSENT CALENDAR

1. Resolution for Quagga/Zebra Mussel Infestation Prevention Grant Program Application and Funding Agreement in the Amount of \$398,433.98

Public Comments & Questions

None.

Mr. Yeates moved approval.

**Motion carried.**

VI. PLANNING MATTERS

A. Update and Discussion on the Caldor Fire

Ms. Regan expressed their unmeasurable gratitude for the thousands of Firefighters and personnel who raced towards one of the largest fires in California's history to protect lives, homes, businesses, wildlife, and the environment. As thousands fled to safety, and many more prepared for the worst, those brave women and men worked tirelessly to control the uncontrollable. Much has been lost in the Caldor Fire, but much more has been saved because of the fire service and they join the community and many partner agencies thanking them and applauding their incredible work.

The fire is not over. It is still being fought in some areas and heavy smoke is still impacting Tahoe and the Eastern Sierra. Tragically, more than a thousand homes and structures were lost just outside the Tahoe basin and our hearts go out to our affected neighbors in El Dorado County.

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The Caldor Fire sparked on August 14th, which seems now like an eternity ago. As the fire approached and evacuation warnings turned to orders. Staff held tightly to our core values of community support and customer service. In just a few days, TRPA computer servers and other equipment were relocated from our building to safety and brought back online. This IT challenge was enormous. The work that we do here at the Agency supports so many functions of our society, including the real estate community, one of those major industries, \$25 billion dollars in assessed real estate values at Tahoe. The data that we safeguard and the workflow systems are crucial to the local economy. Not to mention, the numerous resource protection plans that we have in our computer systems, among other important functions of the Agency.

TRPA didn't miss a beat on the work front despite these evacuation orders. Staff were then forced to crash at friends' homes, shelter with family, moving all across the country because of the fire forcing us away from the Tahoe Basin.

Nearly three quarters of our staff were evacuated, joining the other 30,000 residents of the South Shore who left their homes. Truly, unprecedented that the entire town had to leave. Members of our staff in the Carson Valley opened their homes to their co-workers as well and many were seen camping in the driveways of some of our colleagues and friends in the in the Nevada area in Carson City and in Reno.

It was a dramatic and a traumatic experience that we all are still reeling from on many levels And many of you offered support during this difficult time and on behalf of all staff, thank you.

Despite the challenging circumstances, we kept the Agency humming right along, including continuing a scheduled Hearings Officer meeting through technical difficulties, they processed permit applications working out of cars and campers and really kept the Agency workflow going. It was truly a herculean effort.

Big kudos to the team and for everything they did to preserve our services and themselves and their families. Even the boat crew acted fast to move the TRPA education boats to the North Shore for safety.

For those of us in Meyers and Christmas Valley, many staff that live in the affected areas of where the fire entered the basin watched the video feeds in horror as the flame surrounded our homes and our treasured landscape. Some media dubbed it a Christmas Valley Miracle. Lake Valley Fire Chief said, it was actually firefighting and preparation that saved our beloved Christmas Valley.

Tahoe was prepared for this fire. For those of you who've been on the board for some years, you'll remember Coe Swobe who beat the drum of fire preparedness and hazardous fuel reduction going back 15 years ago, even before the Angora Fire. This Agency has played a major leadership role over the last decade in securing funds for forest health projects and policy shifts to promote fire defensible space and preparedness.

The presentations today aren't intended to distill everything that we've gone through since the fire erupted. The good news is that reports coming out of the incident are unequivocal. The fuel reduction, defensible space and home hardening that went on in Christmas Valley and other neighborhoods made a difference here in Tahoe. And the work that made the difference started even before Angora of 2007.

With your support and leadership basin partners have treated nearly 70,000 acres for fuel reduction in the Basin. Since Angora, 45,000 defensible space evaluations, that's basically every parcel, and then some that have been conducted by fire protection agencies all in preparation for the next fire, which we know will come.

Today, we have three presentations; one by the US Forest Service, two representatives from Cal Fire, and two TRPA staff members.

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The Angora Fire was a major milestone in this Agency's history and feel that the Caldor Fire will be as well. Not only for what we just went through, but how we pivot to looking at everything we do in the lens of climate resiliency, and preparedness for more extreme events, which we know Tahoe will experience in the future.

Ms. Sanchez, Acting Forest Supervisor for the Lake Tahoe Basin Management Unit of the US Forest Service. She's been one of the agency administrators on the Caldor Fire for about 30 days now.

As of this morning, the fire was about 219,500 acres and 76 percent contained. Over the past few days there's been an increase in smoke. They've come a long way and have had a lot of success on this fire, but it is not over yet. There are still some areas that are very difficult to get into, and they continue to work on those areas. One is the Desolation Wilderness which is very remote and rocky. They have crews that have been spiking out, which means having stand along that fire line day and night for about 3.5 weeks now. They'll cycle those crews out every 7 to 10 days and get them refreshed with logistical support such as water and food and put them back in. The second area is also very difficult area to access is near Caples Lake. That's where a lot of the smoke has been coming from over the last couple days. With the condition being so dry, this fire continues to look for opportunity and as we get different wind shifts it pushes the fire in and around those rocks and tries to find more fuel opportunity. There's a primary dozer line built on the east side of that as well as a contingency line beyond that.

The smoke will probably continue over the next couple of days because those fuels are so dry and the longer, we go without any moisture or recovery the drier those fuels are getting. The Caldor Fire has been resistant to control since day one. They'll continue to see some of those resistance and control issues until we get some moisture and a significant weather event.

She thinks of fire in four different phases. The first phase which most people are the most familiar with is the suppression phase. That's the active suppression of any fire.

The second phase is the suppression repair phase. They bring in dozers, equipment to suppress those fires, and to put fire lines in. As a result, they may damage different infrastructure such as culverts, fences, and the ground that needs repair. The second phase is repairing the damage that occurred as a result of suppression actions.

The third phase is the Burned Area Emergency Rehabilitation (BAER) phase. That BAER phase is about stabilization. Those actions that need to take place in order to ensure that we don't have future emergencies as a result of the suppression actions. There is a team currently mobilized right now. TRPA staff are imbedded with their team who are going out and analyzing the Caldor footprint and looking at what are those actions that need to be prioritized to stabilize this ground, stabilize the fire, and to repair those areas in the short term so they can start this recovery phase.

Stage four and final phase is the long term recovery phase. That recovery phase could last not weeks and months but years. They could be looking at that recovery phase for the next couple years, collectively, and in partnership with a lot of the other partners that they regularly work with in and around the Lake Tahoe Basin Management Unit. This long term recovery phase is about resiliency. How do we help the Caldor Fire repair itself to be more resilient into the future? It's their attempt to try and help this fire area become more resilient and do it quicker.

Right now they are engaged in that BAER assessment, the emergency response and stabilization assessment. They'll have a report and various information can be found on the InciWeb site to see the soil severity mapping of the entire fire area. There's a team of specialists doing this work from all over the country along with the US Forest Service and other specialists that have interest within the basin that are a part of that team and process. That final report should be available in a few weeks. After they receive the report that will allow them to build that program of work over that long term recovery phase. There are a lot of partners already engaged in the assessment phase. Then there's the project development phase. Once they know what the areas of concern are and

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what areas they need to prioritize, then they'll develop that project list of what needs to get accomplished on the ground.

There's another tier of this that they are looking to their partners to help with which is the communication piece. It's going to be important that they continue to communicate to the public in a coordination effort. Ensuring that everyone is using the same words, the communication is in alignment, and clear to understand. This is a tough one because a lot of people expect that as the smoke leaves that the fire is done. That's the beginning of the work that they are all going to have to come together to accomplish. How do we rally with each other to clearly identify that communication piece to the public that were serving?

The last piece is the funding. How do we all come together to pay for those priority projects to make sure that this long term recovery and repair is completed and they're doing the best job to get the Caldor Fire on a good path towards recovery and resiliency.

Since 2008, within the Lake Tahoe Basin they've treated 65,000 acres collectively with the entire Tahoe Fire and Fuels Team. That's a great accomplishment and all of the partnerships should be proud of that. About 50,000 acres of that has been in the Lake Tahoe Basin Management Unit. They have a large footprint within this basin and have been working hard with those partnerships to make sure that they're doing their part in protecting these communities and building more resilient landscapes.

There was every reason for all these bad things to align and have a bad outcome. Because of the effort that they did, there was a great outcome. If you see those areas that were treated in comparison to the areas that they were not able to treat, it's a night and day difference. Within the Caldor Fire footprint, 3,800 acres of that in the Lake Tahoe Basin had been treated. Those treatments adjusted, changed that fires intensity, reduced the fire flame fronts, flame lengths, and provided the firefighters a safe way to get in and suppress this fire. There could have been a much different and worse outcome but it wasn't because of the partnerships and the work that they collectively did in protecting these communities and infrastructure.

Chief Anthony and Assistant Chief Newman, Cal Fire will present today's item in two parts starting with Assistant Chief Newman who will address some operational issues associated with the fire.

Assistant Chief Newman, Cal Fire Amador-El Dorado Unit East Division Operations which covers the Lake Tahoe Basin and Alpine County Area. His role on the fire was one of the operations section chiefs which are the people that directs the firefight on the ground, the resources, develops a plan, and implements the plan. Himself and Kyle Jacobson, Fire chief with the Forest Service Lake Tahoe Basin Management Unit was one of the other operations chiefs coordinating efforts as the fire progressed into the basin. Prior to getting into the basin, the fire burned quite a bit of acreage with destruction on the West Slope. As they engaged it in the Tahoe area on Sunday, the fire hadn't quite crested over Echo Summit. They were making plans and firefighting up there with all of their resources; engines, hand crews, and bulldozers trying to make an effective stop on a fire at the crest there.

They were fairly effective withholding the fire from the Basin that evening and overnight. But then as it got into Monday, there was an increase in winds and fire activity which led to the fire spotting into the basin. First along Highway 50 in the frog pond area and starting into some of the Christmas Valley area.

As the activity started picking up that caused them to have two fall back to utilizing the highway and instituting the secondary plan. Starting Sunday evening and Monday before the fire had come into the area, himself and Chief Jacobson had started contingency planning with putting bulldozers down in Christmas Valley and the North Upper Truckee area to build fire lines behind the homes and make a plan if the fire did get into the basin. Those plans were concurrent with the firefighting that was going on top of the Echo Summit area.

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On Monday the fire spotted into the basin and they utilized those fire lines that they had developed and continued to push those dozers around the backs of the homes on the east side of Christmas Valley and then further north into North Upper Truckee and onto the Angora Ridge area. This was to create a good defensible fire line that they could utilize to slow the fire spread as it moved to the east coming down into the basin. The fire spotted over the Christmas Valley and into the area directly to the east of Christmas Valley on the slopes by the Luther's Fire and into the Cowboy Hat Rock area. They started to have that increase in activity and the fire pushing off to the north and east. They utilized their resources to continue to affect point protection and to allow for construction of fire line behind the homes in the Apache area, Pioneer Trail, the old dump site, and moving towards Cold Creek. One of the things that helped as they were dealing with the firefight in all of those areas was, they were able to utilize the fuel reduction that had been done in and around those areas of Oneidas and in towards the High Meadow area. Himself and Chief Jacobsen were aware of those favorable areas with trails, road systems, and fuel reduction to direct the firefighters to be able to make an effective stand along the perimeter of the fire before it was able to impact the homes.

The Tahoe Fire and Fuels Team did provide a good map of where all the fuel reductions had been done in various places and recognized that was also a good opportunity to have effective direct attack. The direct attack is where they could get on that fire's edge and put that fire line and hose line in to be able to extinguish a fire on that perimeter to slow and stop the spread.

There was coordinated effort and collaboration with all the agencies to direct the fire activity and the fire attack as it moved off to the Heavenly and Trimmer Peak areas. They did have some established decision points, one of those being the Cold Creek area for recommending any additional evacuations. The fire did approach that specific area, but they were able to make an effective stop before it hit that Cold Creek area specifically.

The defensible space of the homes also allowed for them to be able to do that direct attack nearest to the homes in the Apache, Mandan, and other areas off of Pioneer Trail. That was part of the local knowledge that they were able to institute as part of the firefight. Overall, it was very successful. It was a challenging incident, but between all the agencies, federal, state, and local, they were able to coordinate and do a good effective firefight to get them where they are now.

Chief Anthony said they would never have had a scenario with a situation where a fire would have started south of Grizzly Flat and end up in South Lake Tahoe. Things are dramatically changing as it relates to the way wildfire burns through landscapes. They've seen that play out year, over year and this year is no different with the Dixie Fire to the north which is one of the largest single ignition fires that they've ever seen. Just south of that was Beckwourth Fire, Caldor in the basin, and then the Tamarack Fire. That's just four fires, not to mention all the other ones that many of which were burning simultaneously throughout the state, at the same time that the Caldor Fire ignited.

He thanked TRPA for their support throughout all the years. TRPA has been an outstanding partner to Cal Fire and to the Tahoe Fire and Fuels Team as it relates to all the work that they've done over the years that resulted in remarkable success in the Lake Tahoe Basin. That's important to mention because there are no guarantees when it comes to the way wildfire burns through landscapes anymore. However, what they need to do is ensure that they're doing everything that they can to give firefighters' that opportunity to be successful.

One of the things that struck him as they were progressing into Caldor, he had a lot of uncertainty, in terms of what the outcome was going to be, just based on the previous fire behavior as it came up the American River Canyon and as it crested into the Lake Tahoe Basin. They were planning for the fire to continue through the basin into Nevada, and potentially all the way down to the mesa in the bottom of Kingsbury Grade.

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When it comes to the Lake Tahoe Basin specifically, his take away from the Caldor incident is there has been a lot of great work done by the Tahoe Fire and Fuels Team. The leveraging of all the resources that they bring to be able to address this issue. Some may say that 21 entities is too many in the Lake Tahoe Basin. He would disagree with that and thinks it's a very functional group, and has been for many years. It's formed under the incident command system which is the same system that they use to manage major incidents like the Caldor Fire.

If you look at everything that has been done as it relates to home hardening, defensible space, and chipping programs provided through the local fire protection districts to help homeowners remove hazardous fuels around their houses. Also, the pre attack planning that has been done in the Lake Tahoe Basin around the entire basin with all of the fire districts, Cal Fire, the Forest Service, and law enforcement partners. Much of which was through a grant that TRPA submitted to Cal Fire to get funding for that.

In addition, the fuels reduction projects that Chief Newman mentioned, as well as the larger landscape projects that are being looked at around the basin specific to Lake Tahoe West. As well as the evacuation planning and Community Wildfire Preparedness meetings. It has to be this cohesive and well-coordinated approach to be able to achieve success the way that fires are now burning through the landscape.

The resistance to control of the Caldor was remarkable. The unified teams between Cal Fire and the Forest Service were literally doing everything they could to stop the approach of the Caldor Fire as it came into the Lake Tahoe Basin. But again, and again, it would continue to spot over those lines and is reflective of how dry things are right now throughout the state, with the drought, lack of snow melt this last winter, and the increasing rising temperatures that we're seeing throughout the state, year, after year, after year.

Many of the areas that it burn through there were dense forests which also contributed to the spread of the incident. You can't necessarily talk about the Caldor Fire without anchoring back into the Angora Fire. The Emergency California Nevada Tahoe Basin Fire Commission that was formed by then Governor Jim Gibbons from Nevada and Governor Arnold Schwarzenegger from California.

He's thankful that they're in a much different place today than they were back in 2007. Out of those commission hearings came 90 recommendations that were very specific to the Lake Tahoe Basin. Out of those 90 recommendations back in 2017 as they were leading up to the Lake Tahoe Summit, all the agencies got together and reviewed each one of those recommendations to see where we at and had we achieved some success in meeting those recommendations. In 2017, 59 percent of those 90 recommendations had been completed, another 25 percent had been partially completed, 7 percent were ongoing, and 9 percent had not been completed. There's still room for improvement. What they ended up doing was leveraging all the resources that they had or could bring to the table to be able to address all of those recommendations. Every agency that was part of those commission hearings was committed to trying to see those recommendations through. The fuels reduction and forest health projects that were completed made a significant difference in the way that this fire burned through the landscape.

When he heard how the fire had transitioned out of the crowns of the trees above Oneidas onto the ground in the area where the Forest Service had completed some fuels reduction work that was the first time that he realized that they had a chance to contain the fire and keep it from entering into the built environment in South Lake Tahoe. At that point, they were able to put resources direct onto the fire, using dozers and hand crews, and engine companies and began to make progress because they had a safe area to work.

When you go back into those areas now, you'll see the treated areas fared very well. There's still live green trees in those areas, but above that in those untreated areas, you'll see quite a bit of stand replacement fire, where it's pretty much a 100 percent mortality up in those upper watersheds.

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One of those recommendations that came out of the Commission was specific to these slope restrictions for mechanized equipment. In the Lake Tahoe Basin there is a 30 percent slope restriction on mechanized equipment. They've been talking for years about the need to elevate that slope restriction, in order, to be able to do more forest resilience work more effectively. Otherwise, they would have to use hand crews which would take too much time and wouldn't be very efficient. The state has different standards under the California Forest Practices Act as it relates to that slope restriction. He would encourage the board to take a second look at that. Specifically, as they look at Lake Tahoe West, as well as additional fuels reduction projects that need to be done around the basin. Given the advancements in mechanized equipment, and the technology that exists it's critical and will help get to a more resilient forest more quickly.

They're seeing much larger fires that are much more severe, more damaging, and last longer. In addition, they're seeing multiple fires occurring at the same time. The reason that's so important is that they only have so many resources in this state, that we can allocate to fires. If there's five or six major fires all burning concurrently it's a major resource draw that occurs in California. We need to shoot for landscapes that are more resilient to fire and that can withstand the effects of fire. The forests were naturally adapted to fire at one point in time and they can see that in those fire return intervals based on research that's been done around the Lake Tahoe Basin. That's where we need to get back to as it relates to forest resiliency.

Through the good work of all the partner agencies, the preparedness, prevention, and the planning that led up to the Caldor, as well as the amazing efforts of the firefighters and the law enforcement officers on the ground, they had a success and they don't get a lot of successes. This is a great story to share and there's a lot to learn. There's still a lot of work to do in the Lake Tahoe Basin.

Ms. Caringer, Environmental Improvement Division Manager and Ms. McIntyre, Forest Health Program Manager will provide an overview of TRPA's role in the Caldor Fire recovery and Tahoe Fire and Fuels Team in the long term.

Ms. Caringer said the fire suppression repair was enacted quickly and is underway. Their partners at Cal Fire and the Lake Tahoe Basin Management Unit have welcomed TRPA right from the start. There's already been a lot of collaboration to map out TRPA's roles and responsibilities in the immediate short-term, and in future planning for long-term fire recovery and climate resilience.

It was clear from the beginning that this fire recovery is going to span many years, and it's going to cross a lot of different divisions at TRPA. Staff has put together a cross agency internal team to make sure they were coordinated internally while engaging with their external partners.

She's leading this team with all the divisions at TRPA; Current and Long Range Planning, the Research and Analysis Division, the Environmental Improvement Division, and Communications. There's internal staff plugged into both into the BAER process right now along with the state process, known as the Watershed Ecosystem Recovery Team.

Last week, staff went on tours with Cal Fire to see firsthand the immediate repair work that's going on. They're working to stabilize and cover the bare soils to try and prevent any erosion control and debris flow in the immediate term. Today, staff is going out with the federal team to do the same. There's been a lot of collaboration between the state and federal teams. People from all over the country are coming in and going above and beyond to protect the lake and water quality. TRPA's Stormwater Team is plugged in with the local jurisdictions, particularly El Dorado County, and City of South Lake Tahoe on what needs to be done in the immediate term with ash and debris flow and the potential for entering their water quality infrastructure. Protecting that to try and prevent flooding or reducing flows of these pollutants as much as possible. They already have staff involved in sustainable recreation and tourism initiatives in Tahoe which the Caldor Fire will undoubtedly affect those. They'll be engaged in this team to think about how to restore trails or recreation sites that were damaged and making sure those types of projects are included in the

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long term recovery. Mr. Segan is working with the Tahoe Science and Advisory Council to determine what the short and long term priorities are for monitoring and seeing how smoke or ash from the fire has impacted the basin.

They are fortunate in Tahoe to already have the Environmental Improvement Program framework established. It's through the EIP that they all have a lot of experience in the basin on collaborative planning, funding, and implementation of restoration projects basin wide. Where we all work together to leverage each other's roles, funding, and together making a greater impact. As they work through this same framework, they'll work at TRPA to think about the planning and climate resilience, and how they continue to adapt the basin on living with fire. This is likely not the last time they're going to see fire in the basin so how do we work together to think into the future, adapting the programs to for climate resilience planning.

Ms. McIntyre, Forest Health Program Manager said the Tahoe Fire and Fuels Team was created in 2008 after the Angora Fire to implement the multi-jurisdictional fuel reduction and wildfire prevention plan. It's 21 partner groups across the Basin working to focus on fuels reduction, protection of communities, and also safeguarding environmental resources.

A large component of the Tahoe Fire and Fuels Team is the Fire Pit which does communications. Right now, this group is focusing on providing a coordinate and unified message regarding the Caldor Fire and future recovery efforts. Also, communicating the importance of defensible space and home hardening in mitigating risks to homes and communities. In 2019, the Tahoe network of fire adapted communities reported a multitude of successes, but specifically, six educational workshops that were held, 22 different community events that were attended by the Fire Pit and by the Tahoe Network of Fire Adapted Communities. There were 2,512 individuals that were reached at those outreach events. They are having impacts all across the basin in communicating the importance of defensible space and home hardening.

Defensible space is treating the vegetation around a structure to increase the likelihood of the structure surviving, mitigating fire risk, and ensuring firefighter safety. The Tahoe Fire and Fuels Team works with private and public landowners across multiple jurisdictions in the basin to help establish defensible space.

(Slide 7) List the parcels that have been inspected for defensible space from 2008 to 2020. The different colors represent different fire protection districts in the basin. The takeaway from this graph is it is a coordinated multi-jurisdictional basin wide effort to have consistent messaging and reporting around defensible space. There's been over 45,000 inspections within the basin, that's almost every parcel and more.

The Tahoe Fire and Fuels Team is working to create a Caldor Fire task force. This task force is focusing on long term recovery. We heard a lot about the BAER Team and the Watershed Ecosystem Recovery Team which is the state complement to the Baer Team. Eventually those teams will wrap up their work and this is where they feel that TFFT can kind of pick up the ball and run with the long term recovery and project implementation.

The task force will coordinate on things like communication, funding opportunities, data collection and management, and forest restoration and recovery on the long term.

(Slide 9) There is still planning and implementation occurring all across the basin. This list is just a few of the projects picked to highlight. For example, the West Shore Wildland Urban Interface has 2,600 acres of 4,800 acres already completed. This is to reduce stand densities for resilience and fire risk on the West Shore and create defensible space. There's the Lake Tahoe West and the Utilities Resilience Corridor projects, the Hazardous Fuels Reduction Project is 11,000 of almost 12,000 acres of national forest areas from Emerald Bay to Burke Creek.



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The Bon Pland on the Nevada side is an 85 acre fuel reduction or fuel break that's created on the East Shore. The Marlette Summit project which was 100 acre fuel reduction within the Lake Tahoe Nevada State Park to modify fire behavior. The list goes on and on and the key takeaway is that implementation is occurring within the general forest and within the wildland urban interface all across the basin.

TRPA Forest Health and Wildfire committee had a presentation in July 2021 on the modeling regarding thinning on slopes 30 to 50 percent. Staff brought in the partner scientists to present those initial results. They're currently conducting the environmental analysis that would be needed to support a code change for thinning on slopes 30 to 50 percent. Staff will be bringing analysis and draft code language to the Forest Health and Wildfire Committee and the Governing Board in coming months for comment, review, and discussion.

The Southern Nevada Public Land Management Act that was created in 1998 sells public lands in the Las Vegas area and makes funding available for a variety of projects, including Lake Tahoe restoration projects. They're currently on Round 18 and since it was created there have been many opportunities for funding over the years. For Round 18, the Tahoe Fire and Fuels Team coordinated across the entire basin with all the 21 partner groups to submit a comprehensive basin wide package of projects for funding at approximately \$40 million.

(Slide 11) All the colors on the legend represent different projects and organization that were coordinated and integrated for the SNPLMA Round 18 funding nomination. The takeaway is that how do we treat a landscape holistically? How do we coordinate across jurisdictions? How do we bring all of our partners together to look at the landscape as a whole in terms of forest resilience and wildfire risk reduction? They anticipate approval of SNPLMA Round 18 funding any day now.

There are additional funding opportunities that the Tahoe Fire and Fuels Team will be identifying and prioritizing over the next few months and long term such as the emergency suppression repair funds. SNPLMA Round 19 request for nominations was released within the last two weeks and the TFFT is actively working on identifying a package of nominations. There will be a focus on the Nevada side of the basin. The TFFT will look at Lake Tahoe Restoration Act funding, private funding sources, and state funds.

Ms. Regan said there are so many people who contributed to the community and getting the community out safely. They've mentioned many, law enforcement, fire service, and the resource professionals. There's also utility infrastructure. If we had this fire in other places in the basin they could have run out of water. Luckily, the South Tahoe Public Utility District had ample infrastructure to fight this fire. The export pipeline that carries treated effluent up and over Luther Pass into the Carson Valley has fire hydrants. That was a big source of concern years ago about making that water available in the event of firefighting. To her understanding, firefighters were connecting to those purple hydrants on Grass Lake Road in Christmas Valley and every available resource even garden hoses on people's individual property. The infrastructure need is great in addition to everything that we've already covered.

The local governments were involved daily in the emergency operations support; the city, the county, and the local communities were cooking meals for firefighters.

Presentation can be found at:

[Agenda-Item-No.-VI.A-Caldor-Fire-Update.pdf](#)

### Board Comments & Questions

Mr. Bruce thanked Ms. Sanchez, Chief Anthony, and Assistant Chief Newman. These teams put their health and lives on the line and worked around the clock. They were powerfully strong when they needed to be. A tremendous amount of thanks also goes out to Ms. McIntyre, Ms. Caringer, Mr. Hicks, and all the other folks, agencies, and committees who work so hard on the fire and

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fuels issues. It's important that we express our thanks to you. We've always appreciated when you provide updates to the board but this last month or so has been where we've really seen the accumulation and the miracle that you have created.

Ms. Aldean echoed the comments regarding the magnitude of the tasks that everyone was confronting and the heroic effort put forth. It was during the tenure of Bill Morgan as the head of the Lake Tahoe Basin Management Unit when the Forest Service began the process of decommissioning roads in the basin. In view of recent events, do they think that's appropriate, especially when roads are required for heavy equipment access for firefighting and hopefully for forest improvement work?

Ms. Sanchez, Forest Service said they did go through a review as part of their first plan in developing what it might look like and what that balance is. There are areas where they need access and need to ensure that they're maintaining that system to allow for that access. Perhaps they don't need as many roads as they originally had. Road systems are difficult to maintain to ensure that they don't find sedimentation and erosion issues along with some of the other concerns that come with road systems. It's a fine balance. They've been looking at the areas that they need that access and trying to find a balance between that and areas which are causing some harm to the environment with regards to poor layout, erosion, and sedimentation issues. Those areas that they're able to leave open, they're now able to maintain to a level which is much more friendly to some of the ecologic resources that they're trying to balance. They'll continue to look at as they develop their vegetation treatments and future iterations of their forest plans.

Ms. Novasel said it's been tough. Basically every single constituent that she has was evacuated within the last three weeks. They lost a lot of homes, it's very difficult. She understands from being a Christmas Valley residents for 40 years on how scary it got and it was difficult. But they're moving on and is very proud of our firefighters. It's been a pleasure to hear about the work that's being done. Those cooperators meetings and public meetings have been a huge help and comfort to the community. Thank you very much. Moving forward as TRPA we need to focus on that second phase and how do we get through it? Winter is coming with rain and snow. We all have concern about getting that recovery moving forward where so there isn't flood and storm issues going into water. Everyone has been doing a great job and it's a huge relief to the community and her constituents to know that it's been a coordinated and very good effort and they're doing everything they can.

Mrs. Cegavske thanked all the first responders, those that took people in, and Ms. Novasel for what's she's done. She thanked Ms. Marchetta for keeping the board updated. She was a former resident of Lake Tahoe on the North Shore for 24 years so she somewhat felt the pain, but not being there she didn't know all of it. She was intrigued by the redwood trees that were saved by being wrapped with the fire retardant material. There was also a gentleman that wrapped his house with the fire retardant material. Thank you for everything that you've done and are doing.

Mr. Friedrich thanked all the firefighters and first responders. Everyone in the community is so grateful. We recognize that others have suffered from this experience and there's more work to be done. There were about 500 to 600 people that gathered around Ski Run Boulevard to cheer on firefighters that came in from Idaho, Montana, and Southern California. It was quite amazing.

This Saturday at noon the City of South Lake Tahoe and Lake Tahoe Community College are hosting a ceremony to honor the firefighters at LTCC. After that there will be a community gathering together with the Tahoe Brewfest which is a fundraiser for the Boys and Girls Club of Lake Tahoe. Everyone's invited to come out and write messages and greet firefighters, etc. that's still being done.

It was mentioned in the presentations today that one thing that could happen policy wise is the 30 percent slope allowance of mechanized equipment. There's attention here with renewed focus on the need for pace and scale and building resilience to this new climate change we're in and expecting future mega fires. What other opportunities do they see in the basin to take advantage

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of the billion dollars that the California legislature just authorized for wildfire prevention and the other sources mentioned? Where could those needs be best addressed if we were to get some major resource infusion in the wake of this to prevent the next fire that may come our way?

Chief Anthony, Cal Fire said there are a lot of streams of funding that do come into the Lake Tahoe Basin. When it comes to thinking about above and beyond just the increase in that slope percentage, they haven't solved the problem with biomass utilization throughout the state. That's a key component because when they do any kind of resilient treatments in these areas, they need to have a place for that biomass to go. That has been a major challenge. They need to be looking at the landscape differently than they have. Tahoe has been a great leader in this as it relates to Lake Tahoe West. There's been a lot of focus on the West Shore and that landscape level project there. The idea behind Lake Tahoe West was then to replicate that around the lake on the north and the east shores. A lot of work has been done in the South Shore, but more needs to be done.

We need to continue that effort of looking at the large landscape kind of resilient projects. He was surprised when Ms. Sanchez said 3,800 acres had been treated. It was just over 10,000 acres total burned in the Lake Tahoe basin. If you think about that in terms of percentage, the amount of treated land in relation to the untreated land. It's a fairly high percentage of treated land and that led to that success. Implementors can only get so far based on whether it's regulatory or policy constraints that they're faced with. The Tahoe Fire and Fuels Team has done a great job working within the constraints that they have. We need to think a lot bigger than we have in the past and that's just a function of the fact that they didn't expect to see fires burn in terms of the same intensity, severity, duration, and size that that they're seeing.

Those are good places to start as it relates to funding. A lot of that funding is specific to the type of project that needs to get done. Not every source of funding will cover every source of project. Within Cal Fire and the Tahoe Fire and Fuels Team there's been a huge focus on home hardening. Lake Valley Fire Protection had done roof replacements through a grant program in many areas where the fire had occurred. There's a high cost to some of these things and finding grant money to offset some of those costs for the individual homeowner is important. He hasn't quite figured out how we solve this problem yet in the Lake Tahoe Basin.

But as the local, state, and federal agencies do their work to protect communities, one of the legacies that we still have within our built subdivisions is a high density of trees. It's not so much that homeowners aren't willing to do some tree removal because under the TRPA regulations, they can remove anything under 14 inches diameter without a permit. The problem is the cost associated with doing that kind of removal. It's working around homes that are very close together, power lines, using cranes to move trees that aren't very large but can't be removed without that kind of expertise and level of equipment. That needs to be a focus as well, not only not only to increase that defensible space, but also looking at it from a forest health and resilience standpoint.

At some point, many of the trees are starting to compete with each other and if we continue with these prolonged drought periods, they're probably going to see an increase in bark beetles that are going to come into the basin like we saw in the 1990s. We'll see mortality one way or the other if we don't have forests that are resilient to bark beetles, drought, disease, and wildfire. He would encourage at least on the California side of the Basin for the agencies to continue to look at the Fire Prevention Fund grants and the Forest Health Grants. That's going to be a fairly steady flow of money over the course of the next several years.

Regarding building capacity, Lake Tahoe Community College has been working on trying to ramp up a forestry program at the college. Forestry has languished over the years and we need to recruit more forestry professionals throughout the nation to be stewards of our forest lands. Kudos to Kim Carr who is doing this under a grant and the college for supporting this program.

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Mr. Hicks said as a former member of the bi-state fire committee that was formed after the Angora Fire it is gratifying to see what today's professionals have been able to accomplish in the past 13-14 years. It's gratifying to see the report of that commission was not buried and forgotten. It was a rewarding experience to be on it along with many fine people from California and Nevada. Back then, all of the agencies and especially TRPA had an angry public. The public was angry over some of the restrictions and limitations that prevented them from protecting their own properties. The education and the fire safety had been around but people really didn't relate to it. Looking back now over those years, it's rewarding. He thanked Ms. Sanchez, Chief Anthony, and Assistant Chief Newman and all of the people in their agencies for the amazing job that they've done with the Caldor Fire, the Dixie Fire, the Tamarack Fire, and all of these other fires that are surrounding us.

Another lesson learned from the bi-state fire commission days is that there's things that they do as commissioners to allow a forum where they can listen to people tell them what's going on. They listen to the professionals, the public, and each other. From that they learn. There's so much that in our own little way, we can do to try to help out. We all have our lives and constituencies but anything they can do to help address these problems will have long term benefits. We do have some serious recovery and restoration matters that have to be addressed. He thanked Ms. McIntyre and Ms. Caringer for their work and coordinating the efforts with all of the agencies in the basin. We've covered a lot of things today but the important thing is that the fire isn't out yet and there's work to be done.

The fire staffs are dedicated to putting these fires out and there are going to be many more fires but these are the people that are the resources that we look to when doing a lot of this preventative work in the future. No one has a simple answer to the question of how this will affect the preventative work that needs to be done. He's concerned about this wonderful project in process on Tahoe's West Shore of 60,000 acres. There's no doubt that the forest health work needs to be done there so we can prevent or at least help reduce the impact of a fire that will hit that area someday. They as commissioners need to focus on doing everything they can to help the cooperative agencies keep these things on track moving forward to get them done as fast as we can.

Mr. Rice said the cooperation was incredible. During the Tamarack Fire every morning he attended a Cal Fire meeting in the Valley. During the Caldor Fire he attend those meetings by Zoom to get information on what the community needed to be aware of, keeping the County Manager and everyone involved that were not firefighters informed and to provide their input on what they felt needed to happen. He's thankful and appreciated for all of the people that spent their time letting us know what was happening and what was coming next. Even before this fire in the basin there was the Gondola Fire and they had what was called the Fire Safe Council in Douglas County. There was federal money that was made available for treating our own properties to make them more fire safe, which included removing trees. He had several trees removed from his property at very little cost to him. He would like to see something similar to the Fire Safe Council basin wide to help individual homeowners thin the forest on their land. He would also like to see the Forest Service continue to treat their properties. Some of their property on the east shore was treated years ago but things have a tendency to grow back. Although, they allow them under the good neighbor policy to clear the pine needles and things adjacent to our properties.

Ms. Gustafson echoed all of her gratitude to the first responders and the presenters today in the efforts that have come about. She was able to go out with the Placer County, Cal Fire chief as the fire entered over the summit and watch some of the efforts of the firefighters in tracking down those embers. It was truly amazing. For any of us who haven't had that chance to see it firsthand and be enveloped in that smoke and feel the heat through the vehicle of being so close to burning trees. None of us can thank you enough. A group we haven't thanked enough are the local residents and especially watching the evacuation from South Shore, and the efforts of the public to go ahead and get out of the way was so tremendously helpful. We hear this a lot at TRPA that people are afraid we can't evacuate and we won't be able to evacuate in a timely manner, yet that

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did go well. There were delays, but no city anywhere in the world can evacuate all its people without those kinds of delays. She thanked everyone for the proactive approach of getting those folks out in a safe and organized manner. As traumatic as it was for people to have to leave their homes, everybody did a great job. She also thanked the public for tolerating prescribed burns and for the fuels treatment, and changes in our code. Without the public support, we could fight and fight on some of these issues. We've come a long way and the public is accepting of much more. Two days ago there was an article in the San Francisco Chronicle about how the prescribed burn areas helped with the Caldor fire. That education goes a long way when people are asked to tolerate smoke in the off season.

We know catastrophic wildfire changes the forests and the forests have come to the place they are because of the practices that interfered with nature. When we revegetate are we looking at ways to recreate a more mature forest? And more thoughtful plans on how we revegetate so that we can skip revegetating as densely and then ending up with the same situation again?

Ms. Sanchez, Forest Service said the recovery phase of any fire is very delicate. The science is not exact and that is what makes it so hard. There is a little bit of a human element that goes into the recovery phase of fire and post processes. Over the last 20 years of them responding to fire recovery they've learned a lot and their practices have changed. Even since the Angora Fire their practices have had to evolve because the climates and systems have evolved. They continue to look at what is right and where that sweet spot lies. When they look at revegetation and forestation the practices that you're going to see them implement on the Caldor fire are different than some of the practices that you saw them implement on the Angora Fire, and other past fires. Science has evolved, science is better, and the climate has changed. The climate is such that they're not able to sustain as many trees as we were able to 30 or 40 years ago. It's in an environment where it doesn't make a lot of sense to stock levels at higher areas or higher densities because those trees are competing for the same amount of water and nutrients. The scientists and specialists are looking at what that is and they've continued to evolve and adjust within their agency.

Some of these areas are able to be restocked and reforested and some are based on slope, rock, and the soil type. Some of that area, specifically within the Lake Tahoe basin is going to limit those restocking levels. They'll see once that report comes out what that looks like. Those will be things that she'll look at and consider what the sweet spot is and right level. They've learned a lot over the last 20 years of post-fire recovery and what that looks like. She expects that those post fire recovery conditions and expectations are also going to be evolving specifically on the Caldor just because of where we're at with climate.

Chief Anthony, Cal Fire said there's a tremendous amount of carbon that gets out of the living vegetation released from fires. There are standing dead trees that are still storing carbon that will either be removed and stored in a different way, such as biomass or lumber, or some other product, or it's eventually going to decay and release back into the atmosphere. Ideally, what you wouldn't want to see except for those areas that Ms. Sanchez mentioned where it is difficult to restock or reforest an area is the forests more and more throughout the State of California after they burn are converting back to brush, which is really kind of the natural succession. But it has to do with the fact that the forests are burning so intensely there's no seed source left for trees to grow back in that area. There are both private nurseries as well as the Forest Service who has a large nursery in Placerville where they can begin that process of growing trees to replant. That's a goal of both private and public entities to do that. One of the considerations that has to go into that now, is that seed stock that came from that area the most appropriate seed stock to now plant back into that area.

Because of the way that the climate is changing, the trees may not necessarily be adapted to that elevation band anymore. There's a lot of research being done and looking across seed zones on how we can use a seed from another zone that would be more appropriate for that area. The goal of all the agencies is to try to appropriately restock those areas and maybe not using the same

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stocking standards that we've used in the past, in terms of number of new trees that get planted but looking at lower density levels that are more manageable moving into the future.

Also, there needs to be the funding to manage that moving forward. You don't just plant a tree and walk away. There's a number of steps that go into ensuring the success of that reforestation effort that needs to occur. This isn't specific to the Tahoe basin but rather a statewide level issue that we have to somehow get ahead otherwise we're going to see these large landscapes convert to something else that's going to be a lot less desirable and more flammable.

Assistant Chief Newman was on the Dixie Fire when the Caldor Fire started and had mentioned to him that he had to switch some modeling with the Caldor Fire from essentially a mixed conifer tree type to a brush type to replicate just how fast the fire moved out of Grizzly Flat. They have to make these shifts in the fire behavior modeling to better understand what's happening with the vegetation and landscape.

Mr. Bruce said Lauren Fletcher, PHD from Oxford who has been in our community for the last couple of years is an extraordinary expert in seeding ecosystems and might be a great resource for purposes of science and tree growth post fire.

Ms. Williamson said her deep and profound thank you to the fire community and all of the leaders in the community for all the work they've done. Her comment is towards that public utilities commission piece of this. Utilities and fire, you can't talk about one without the other. There's a staggering percentage of some of California's biggest fires started by utility equipment including the Dixie Fire. As public utility commissions in the West start planning for this, they look more to the utilities to work with the fire community to put these issues in front of utility commissions who aren't traditionally fire experts. In Nevada, in 2019, there was a bill passed requiring them to do natural disaster protection planning. The PUC passed their first natural disaster protection plan for Nevada. In 2020, the one thing they looked at was those powerline corridors. In the Caldor Fire the powerline corridors provided an important fuel break along Pioneer Trail. TRPA permits a lot of the tree removal on these corridors.

She wanted to ensure that the PUC's in California and Nevada, in particular, are getting that information from the fire community on how wide those corridors should be around powerlines. It's a double bonus of being a fuel break and also preventing fire starts. As part of that Nevada protection planning, they also talked to the telecoms and the communication centers to make sure that, for instance, cell on wheels are available. Some of those were provided for the Caldor Fire by NV Energy and some of the telecom providers. There's a lot of infrastructure utility telecom planning that goes on through the PUC process. The California PUC has similar plans from the regulated entities pending before them. Just want to make sure that they're plugged into the fire community getting your best recommendations on those utility corridors. As we talk about undergrounding some of those power lines that were not potentially losing some of those corridors by undergrounding those lines. She doesn't know that we're getting to fuel break but we're certainly getting the fire start reduction there.

During the Caldor Fire she received some briefings from NV Energy ensuring that for instance, Lake Tahoe Airport was up and running for water drops and that they had power throughout that incident was key as well. They need to ensure that the PUC's are being as helpful as they can to the fire community in their planning efforts.

Chief Anthony, Cal Fire said he can only speak for the California side. They've been engaging with the utilities for quite some time because they inherited a lot of challenges when they came into the basin. Their vegetation management folks have been great to work with when they identify issues are threats to lines. There has been a tremendous amount of work and some grants that have been submitted that haven't been funded to do resilient corridors throughout the Lake Tahoe Basin. Recognizing that not only is there a potential threat of trees moving into the power lines during the wind events but also using those as a point of defense. That risk is as real and it's

there. He's not sure where they are at with the resilient corridor concept but was actively being worked on and may have found a different funding source.

Ms. Sanchez, Forest Service said they've been working closely with Liberty Utilities and NV Energy to ensure that they've got the ability to treat within those corridors and to make sure that it's coordinated but they're not working to tie their hands either. There's a fine line between making sure that those are coordinated efforts which fall within their Forest Plan, guidelines, and expectations. But doing it enough that they reduce those risks from those corridor infrastructures. There's a line item in the infrastructure bill that speaks to infrastructure. When they talk about infrastructure resiliency this is the base of that. How do they broaden people's perspectives to see things like power lines as infrastructure resiliency or making sure that they're allowing them to move into the future in a way that reduces risk to that infrastructure?

That is key here in California and Nevada and the Lake Tahoe basin. That is one area she's looking at is how do they take those potential funding opportunities specifically around infrastructure language and utilize that to better secure and defend those utility companies or corridors as well as other areas. That is one aspect that they have further opportunity coming towards us moving into the future. Maybe they're not where they needed to be 20 years ago but they've come a long way and still have a long way to go on this one. They're working with the utility companies across both state and federal areas to try to give them those opportunities that they need to better secure that infrastructure.

Ms. Regan thanked the speakers who presented today. Chief Anthony spoke to many pipelines of funds coming down the pike. They're working with their Tahoe partnership, the California Tahoe Alliance partners to advocate for climate resilience and forest health funding at the state and federal levels. If you look at the last 10 years of the Environmental Improvement Program, they've invested \$133 million in forest health. The lion share of that is federal funds. They've already invested so much more than most communities and it's helping them be prepared in all of what everyone has heard today. It takes money to do these projects and there's a lot more to do. They're going to need to advocate and continue to have that unified voice for Tahoe with the Tahoe Fire and Fuels Team being a leader in bringing us all together to collaborate.

They are also supportive of all the utility corridor work. TRPA staff has met with the utility and PUC staff to advance that work. There are funding proposals on the table which they hope to hear soon, particularly when Secretary Haaland signs the SNPLMA Round 18 that will allow more of that work to continue.

TRPA's Forester, Bruce Barr has been heavily engaged working with the utilities. If you drive up and down Pioneer Trail, you'll see blue paint on the trees that Mr. Barr marked for the utility corridor on the South Shore. He's has been marking thousands of trees just in the last couple of months. He's also been working with the South Tahoe Public Utility District marking trees around pump stations and other critical infrastructure, even just ahead of this fire to do additional vegetation clearance to help safeguard our public health and safety equipment.

#### Public Comments & Questions

None.

#### VII. APPEALS

- A. Appeal of Executive Director Approval of Westermeyer Single-Family Addition and Remodel, 1015 Skyland Drive, Douglas County, Nevada, Assessor's Parcel Number (APN) 1318-03-210-030, TRPA File Number ERSP2021-0347, Appeal File No. ADMIN2021-0022

Mr. Bruce asked if any board member has had ex parte communication with any of the parties of this appeal.

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Mr. Marshall said the Legal Committee heard testimony from both sides in this appeal, as well as, from staff, and voted unanimously to deny the appeal. At the Governing Board, the motion will be made in the affirmative. The unanimous decision of the committee was to deny the appeal and affirm the decision of the executive director to issue the permit.

This is an appeal from an executive directors approval of a permit for a single family rebuild. The issue is height and how TRPA staff calculated height. You'll hear that this application was outsourced to a third party reviewer, Wells Barnett.

(Slide 3) Shows the parcel outlined in red which is located in Skyland in Douglas County. This is the Westermeyer parcel that received the rebuild permit. The parcel just to the north noted by the red dot is the Herwig parcel. Mr. Herwig is the one who filed the appeal because the reconstruction he believes will block some of his view of the Lake out towards Skyland Court.

(Slide 4) This is the view of the existing dwelling on the Westermeyer parcel. To the left is the Herwig parcel. We'll be speaking about the height of the rebuild portion of the house that is essentially the garages and may be a complete tear down.

(Slide 5) Is the site plan. The bold lines associated on this proposed site plan is the foundation lines. The foundation for the main part of the house is bolded and they're consistent and it's circumscribing the white area. The House is built with two porches over the driveway. The light lined area is an extension of the house that when they show an elevation you'll see is built on these posts. This is the foundation from which the lowest point of natural grade will be determined.

There's two key items to a height determination. One is that where do you start measuring the height? Under TRPA rules it's the lowest point of natural grade where it intercepts the foundation or the foundational elements, external walls, etc. because of these posts, it's the lowest point of natural grade to a post.

The lowest point of natural grade is 103.7. The "x" that's circled in green at 103.2, that's the nearest accurate spot elevation. Since they're about a foot away from that elevation point upslope, the actual calculated height for lowest point of natural grade is 103.7. That's how the lowest point of natural grade was determined. It's consistent with all of TRPA determinations. The 102.6 spot elevation is the spot that the appellant, Mr. Herwig's consultant contends is the spot that should have been used. It's not used because it's not close to a foundational element. It's significantly further away from any one of the posts that they would have used to determine this. Staff and the consultant chose the nearest point of lowest natural grade to the foundational element which is this post in the upper part of the diagram.

(Slide 6) The next point of dispute is the cross slope which is one of the axes on the height table that determines together with the roof pitch the actual amount of height it can go up. It goes up approximately six inches in every two degrees of height. The difference is about six inches between what the appellant contends and what the Agency found. The yellow line going through the site plan is an illustration of the cross slope calculated through the building site. It's perpendicular to the elevation lines, in particular, the 108 line that was etched across the building slope. This is calculated just like TRPA does all of their height calculations. There is nothing out of the ordinary here. This is described in the staff report. The cross slope here just a few feet to the right of the cross slope outside the building site which was done during the site assessment turns out unsurprisingly to be the same 10 percent. Adding those two calculations; the 10 percent cross slope plus the lowest point of natural grade, that is the allowable height that was determined by the consultant, checked over by TRPA and is the guiding force of the permit that was issued for the allowable height.

Mr. Johnson Attorney representing the appellant Mr. Herwig. His understanding of what happened this morning in the Legal Committee is that there is a document in TRPA's file that until



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this morning Mr. Midkiff, Mr. Herwig, and himself were unaware of. This document in the file may have a material effect on the reasons why this application was granted at the staff level and maybe even played a role in the Legal Committee's decision today. He doesn't believe it was intentional but there was a document with topographic lines on it that makes it relevant to what they're discussing now that was not available to them or on TRPA's website. They have concerns that they're playing with a different deck than what was being reviewed by staff and this morning by the Legal Committee. They'd like the opportunity to consider the missing card from the deck that they didn't get a chance to look. It offends fundamental notions of substantive and procedural due process that there's something happening at TRPA and the processing of this application which includes a document that they are unaware of until this morning. It's important to know what it is being reviewed so they can evaluate that themselves.

Mr. Midkiff will speak to the merits of this and explain why the plans themselves exceed the maximum allowable height under the TRPA code. If you're not inclined to do that right now, at a minimum this matter should be sent back to staff and the approval should be vacated. Then they and staff can all evaluate this based on the same deck of cards.

Mr. Bruce said as he understood it from this morning, the document that that's being discussed was essentially an exhibit of which the calculations would have been exactly the same without it being shown in a depictive way.

Mr. Marshall said yes, that's accurate. The illustration that's being referred to was purely illustrative. It was not operative in terms of the actual determination of the height of the building. He'll walk through that during his rebuttal after Mr. Midkiff and the permittee provide their presentations.

Mr. Midkiff, Midkiff and Associates said there are several things to point out for consideration. (Slide 10) Looking at TRPA's site plan shows the slope being calculated through the building site. When he spoke to the outsource reviewer and the documentation he got from the file had a line to south of the house that was used by TRPA during this site assessment to classify the land capability, not the drawing through the building site. Also, TRPA's drawing of the slope through the building site does not go all the way through the building site. It goes from through the existing footprint that's bolded on the line but not through the elevation and the footprint of the living room and deck that projects over the driveway.

When you use the entire length of the building site the cross slope is 8 percent not 10 percent. When you apply that with the roof pitch that gives the height of 25.7, not 36.1. That's the case whether we're talking about a different load point or not. The issue with the column out to the north of the end of what is seen on the plans for the footprint of the projected living room is not visible on the copy of the site plan on the screen right now. Looking carefully, you can see a part of it on the right side where the columns are. But there is no projection of that deck across the driveway to where he ended his cross slope calculation. It was not apparent to him that there was a deck out there with a column further out. When he spoke with the outsource consultant that was not apparent and was not aware of that. Those things are elements that he didn't consider and would have if he'd been aware of them.

The cross slope is still in error and the house very well might be over height because he was not aware of those additional information pieces that came to light this morning.

Mr. Exline on behalf of the permittee. They are in agreement both with the permit and the process that was undertaken to have the permit be issued, the permit itself, the determination of the Legal Committee and Mr. Marshall's presentation today.

However, there's a few things to further fill in how these processes generally work, and how some of these nuance decisions are made. Representing an applicant, you typically submit an application, run your own cross slope, start to develop the design of the building, and you submit to TRPA.

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In this particular instance, the project was farmed out to a third party review, Wells Barnett and Associates. Mr. Barnett was a former manager of Current Planning at TRPA. Following project submittal there was a question regarding slope and height. The designer, Wells Barnett and TRPA staff met to ensure it was accurate because they want to be in line with TRPA policies. As a result of that, they engaged with the surveyor to give them the spot elevation that was referenced that derived the height and is accurate with every kind of historical TRPA interpretation about heights calculated. They're supportive of the TRPA process that got them here but more broadly, the interactive nature in which they were able to collaborate with Wells Barnett and TRPA to assure that they were bringing forward a complete project that would be approvable, and it was. It's unfortunate they're here today.

Regarding the additional information that came to light today appeared to him that it was a site plan in which Mr. Barnett decided to mark up with a highlighter, one particular topo line. He's been challenged on projects for many things, but a highlighted topo line on a map is a new one.

(Slide 5) Mr. Marshall said this is the site plan that everyone agrees was available. Unfortunately, it's because they were trying to fit it all on the slide you can't see it. You will see that same post with that circle around it that reads lowest point of natural grade (LPNG). At that point is the spot elevation. All of that is the operative information that drove the site and lowest point of natural grade calculation which is there and has always been available to the applicant.

(Slide 6) What the applicant was saying that was new, is this dashed line running down the 103 contour. That's what Mr. Barnett put on his working copy of the plans and that's what this is a closeup of. That line is just there for illustrative purposes it doesn't operate in any way to identify the lowest point of natural grade which was done off of that post and that site point at 103.2. Whether or not they had this, it doesn't matter to the actual calculation of height. We have a site plan that was drawn on by the outside consultant but is not an effective line to the actual determination.

The other question that Mr. Midkiff raised was the fact that it was unclear to him that the foundation elements was very lightly drawn extension over the driveway. That it was, in fact, these posts. He says he was unaware and it was not apparent to him.

(Slide 12) This is the elevation slide and was available to the neighbor, Mr. Herwig and you can tell that that whole aspect of the house is built on those posts that were calculated. It can be seen that his highlighting here illustrates right in the area where he thinks the low point of natural grade is. He should have known that the low point at natural grade was not the wall, but actually where the pillar is which was the 103.7.

Both of these points that they've raised don't hold water in terms of the actual operation and justification for the permit. They litigated this due process issue in the in the Garmong case and the District Court dismissed a due process case that was based on a neighbor's interest in a permittees application that was received. They're saying that they didn't have the information that established that this was the correct way to do the height. If they didn't have that line which again was not operative, they're still basically conceding that we did the calculation appropriately.

(Slide 6) The difference from TRPA's cross slope and Mr. Midkiff's cross slope is that his cross slope was essentially canted to the right and he came up with a lower cross slope which gets a lower amount of height. He did that based on what he says is extending the line all the way to the extension over the driveway. But mainly it was the 8 percent because it was canted to the right. Maybe that's how he would have done it but what staff did was draw right through the main section of the house and made it perpendicular to the lines that are running through the house rather than in Mr. Midkiff's view canting them off to the right. Which TRPA doesn't think is perpendicular to, particularly to the 104, 108, and the 106 lines. That is an illustration of the planner judgement that goes into these height derivations.

Presentation can be found at:

[Appeal-VII-A-Herwig-Appeal.pdf](#)

#### Board Questions and Comments

Ms. Aldean said this is really all focused on the interpretation of the code with respect to establishing the low point. Did this application require the preparation of a simulation to determine what it would look like from various vantage points including from the neighbor's property?

Mr. Marshall said this house is not visible from lake and they don't require simulations based on impacts to private views or in this case would be Mr. Herwig's property.

Ms. Aldean said presumably the setbacks are all in keeping with the Code of Ordinances.

Mr. Marshall said correct.

#### Public Comments & Questions

Jonathan Herwig said he's the appellant in this case. Mr. Marshall stated that this house isn't visible from the lake; it's clearly visible from there. The photo that was shown was taken in such a way that it was blocked by the pump house in Skyland. But if you move either direction, you can easily see the house from there as it currently exists. And the house that will be built will dominate the entire beach area there. He's an environmental consultant and has been through a lot of permitting hearings. He's never experienced something like this where the reviewer of a permit is also in essence trying to make up the deficiencies of the permit design. That seems very odd to him. That is what Wells Barnett is trying to do here. There's various reasons why that might be happening.

They heard that from Jesse Walker, Wells Barnett that they had looked at the permit and identified deficiencies. They sent it back to the Westermeyer architects to take care of the deficiencies. When those revised drawings were returned, they were not addressed but Mr. Walker indicated that the TRPA staff ignored that instead issuing the permit rather than sending the information back to Wells Barnett so they can identify the deficiencies. It seems to him that there's a strange permitting process and there's problems with it. A couple of days ago, Mr. Marshall called Mr. Midkiff and suggested that they drop their appeal because the board what he said essentially was incapable of understanding these issues and would just approve it. There is a problem with the permitting process here and he's asking the board to recognize this and to approve the appeal, or at least approve a continuance so they can take a look at this and make sure that this design is copesetic with TRPA regulations.

#### Board Comments & Questions

Lyn Barnett, Wells Barnett Associates said he was with the Agency for 25 years, starting in 1986. He always worked in the environmental review or project review division reviewing projects. His last 12 years with the Agency he was the department chief in charge of all that work. In 2011, he left the Agency and started a consulting business with Jerry Wells, TRPA former deputy director. In his experience with plan review he personally reviewed hundreds, possibly, thousands of projects such as this, either directly or through his staff. He takes umbrage at this accusation that there's some something going on, some collusion, or other factor. If you can't win on the facts and you have to pick on a consultant.

This was a pretty vanilla project. The house is visible from the lake but not very well. It is not a lakefront or in the shoreline. They reviewed the house initially and had communications with the architect and asked for additional information and make some corrections. That's very normal in the review process which was heard from Nick Exline. They finally received a set of plans that

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passed the test and issued a permit for this. They made findings for the height. What is seen on the orange line is the work in progress and was their own internal deliberation. When they review plans it's common to mark up the plans as you're reviewing them. It's common to write notes and verify points. What they have on this survey besides topographic contours at two foot intervals which is the requirement in the application packet that they have a number of spot elevations.

When a surveyor goes through a property such as this, they'll make spot elevations all throughout the property, make field notes, and they'll draw the site plan. They estimate where those two foot contours are based on their spot elevations. When they're reviewing these plans, he was curious on where that middle elevation was. In his drawing that is a one foot contour elevation which was his own estimation. It did not change the height calculation. For him to hear that the architect got some special favor out of this or treatment is offensive. These plans are not complicated any more than a normal project. They did not look at the view protection from the neighbor as mentioned and that's not part of the calculus. If this was a lakefront property, they would be doing shoreland calculations and measuring visible mass. He stands by their decision. They were in communication with TRPA staff throughout the process and at the end they presented their draft permit to staff for discussion. It's not common, but sometimes the staff will ask them to make revisions. In this case, the permanent passed muster and it was issued.

Mr. Marshall said the motion should be to grant the appeal to affirm the decision of the Executive Director. Vote no to deny the appeal and vote yes to grant the appeal. The unanimous recommendation of the Legal Committee was to deny the appeal which would be a no vote on this motion.

Ms. Aldean made a motion to grant the appeal.

Nays: Ms. Aldean, Mr. Bruce, Ms. Faustinos, Mr. Friedrich, Ms. Gustafson, Ms. Hill, Mr. Lawrence, Mr. Rice, Ms. Williamson, Mr. Yeates

Absent: Mrs. Cegavske, Ms. Novasel

**Motion failed.**

## VIII. REPORTS

### A. Executive Director Status Report

Ms. Regan said last night, several members of TRPA including herself, Mr. Marshall, Mr. Nielsen, and Ms. Good participated in the Tahoe Keys Property Owners Association town hall meeting. TRPA is very engaged with the Tahoe Keys on a number of fronts. Last night's topic was the pending Memorandum of Understanding on the shoreline implementation for moorings and getting the keys into a mooring registration program that was in contained in the approved Shoreline Plan of 2018. She thanked staff who have been working for the last four years to do this. It is a very complicated matter, but last night, they heard a lot of support from the homeowners. The meeting was held at the Tahoe Key pavilion with in person and virtual participation. The board will hear this soon for deliberation.

In addition, they've hit a milestone in the weeds control project that's been going on for some time. The environmental analysis has been done and the Lahontan Water Board released a Draft Discharge Permit as part of their regulatory process. It's scheduled to go for decision at the Lahontan Water Board in January 2022. Then it will come back to the Governing Board for a decision at the January board meeting. This is a high priority lake clarity issue with invasive species moving from out of the Tahoe Keys into other parts of the lake.

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### B. General Counsel Status Report

No report.

## IX. GOVERNING BOARD MEMBER REPORTS

Mr. Rice said Douglas County has been having issues with the vacation home rentals. They've come up with their final panel who will be their advisory board. There will be two lake residents who have permits, two lake residents who do not have permits, and one from the East Fork area. The five member board is Lauren Romain, Michael Sloan who are VHR permit holders; Keith Byer, and a Mickie Hempler, Lake Tahoe residents who are not permit holders, and from the Valley, Patty Graf. They'll be hearing any appeals for fines instead of the board.

## X. COMMITTEE REPORTS

### A. Local Government & Housing Committee

None.

### B. Legal Committee

None.

### C. Operations & Governance Committee

None.

### D. Environmental Improvement, Transportation, & Public Outreach Committee

Mr. Lawrence said the purpose of the meeting was to hear from the consultants on their findings for revenue suggestions for transportation after they held a series of interviews with key stakeholders. Their presentation was along the lines of what they felt was feasible revenue sources, and perhaps those that were not as feasible in order to get to that \$20 million per year target. That was a very robust discussion, and a lot of questions were asked. He's confident that if they can get those questions answered they can have even a more productive discussion the next time they meet.

### E. Forest Health and Wildfire Committee

Mr. Hicks thanked Ms. Marchetta and staff particularly Ms. Caringer and Ms. McIntyre who did all the work on the fire briefing today. They will be addressing the question of using mechanical equipment on steeper slopes. The committee will also address biomass. There was an amazing amount of work done on this Caldor Fire, but there's more work that has to be done to prevent future fires and to prepare the basin for future fires.

### F. Regional Plan Implementation Committee

Mr. Yeates said in October the committee will discuss the Mobility Impact Fee.

## XI. PUBLIC INTEREST COMMENTS

None.

## XII. ADJOURNMENT

Mr. Yeates moved to adjourn.

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Chair Mr. Bruce adjourned the meeting at 2:35 p.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Marja Ambler".

Marja Ambler  
Clerk to the Board

*The above meeting was recorded in its entirety. Anyone wishing to listen to the recording of the above mentioned meeting may find it at <https://www.trpa.gov/meeting-materials/>. In addition, written documents submitted at the meeting are available for review. If you require assistance locating this information, please contact the TRPA at (775) 588-4547 or [virtualmeetinghelp@trpa.gov](mailto:virtualmeetinghelp@trpa.gov).*