

Best Management Practices (BMP) Compliance Working Group Meeting #2

Tuesday, July 8th, 2014

9:00 a.m. – 12:00 p.m.

TRPA – 128 Market Street, Stateline, NV

Call to Order: 9:01 a.m.

In attendance:

Working Group Member

Clem Shute
Shelly Aldean
Dan Siegel, CA Attorney General's Office
Jason Kuchnicki, NDEP
Karin Staggs, NTCD
Jason Burke, CSLT
Sara Ellis, Nevada Realtors
Shannon Eckmeyer, League to Save Lake Tahoe
Woody Loftis, NRCS

Representing

TRPA Governing Board – CA
TRPA Governing Board - NV
State of California
State of Nevada
Nevada Local Governments
California Local Governments
Business Interests
Environmental Interests
Non-affiliated Technical Expert

Public Interest Comments

Shelly Aldean: First item on the agenda – Shay, do you want to formally introduce each member of the working group or would you like to wait until after public comment?

Shay Navarro: I can do that, as I have a slide and can do that as part of my presentation.

Shelly Aldean: I'm going to go ahead and open this up to public comment. Please be mindful of the fact that I suspect most of you are here because of the point of sale (POS) and real estate disclosure process that appear on the agenda. We would rather you wait until those items are heard by the committee before making your comments. So with that, I'll go ahead and open it up to general public comments. Are there any general public comments? NONE.

Seeing then, we will close public comment and bring it back to the group. Next item on the agenda is approval of the agenda. Any changes to the agenda? NONE.

No changes; then we will deem the agenda approved as posted. And next is the overview presentation by members of TRPA staff. Shay?

Overview Presentation

Shay Navarro: Thank you and good morning everyone. My name is Shay Navarro. I'm staff with TRPA. I am going to be facilitating this meeting today. This is the second BMP Compliance Working Group Meeting. And as we move through our process today, I'd like you to please observe our ground rules which are posted up here on the wall for everyone to see. And also, please do me the courtesy of just letting me get through my presentation without any interruptions. We have specific opportunities for public comment and I'd appreciate it if the Working Group could hold off on any questions they might have until the end as we might have a

chance to answer those questions as I move through the presentation. I only have 15 slides so this will be pretty brief.

So as you all may know, we are here to discuss the TRPA BMP Compliance Governing Board (GB) priority project. This was set by the GB in response to their 2013 priority-setting workshop to create a subcommittee of the Board along with interested parties to explore options related to BMP compliance. And this effort continues with discussions that we had during the *Regional Plan Update* (RPU) as well as those had by the Bi-State Consultation Group, but it also expands the topic and the context to include the entire stormwater management system. The GB directed the subcommittee to really focus on guiding TRPA's efforts and limited resources to the most effective stormwater management strategies. And additionally we have other working groups and subcommittees of the Board – the EIP Parcel Specific Working Group that this working group will coordinate with. The EIP Parcel Specific Working Group is a group of jurisdictional and partner agency staff that work to both implement BMPs as well as the TMDL so we are participating and coordinating with them through this process.

In this presentation I am going to give a brief introduction of the working group members for our audience here. I'll talk about the schedule and the process to date, briefly go over the outcomes from our first working group meeting back in March, go over the discussion topics and data needs, our analysis and preliminary recommendations, and then next steps before we turn it over back to Shelly and start with the working group discussion.

These are the members of our working group. When I introduce you if you can just raise your hands so that everyone knows who you are.

The working group members were appointed through a formal process and they were endorsed by the TRPA Regional Plan Implementation Committee. Our two co-chairs, we have Clem Schute of the TRPA Governing Board representing the California side and Shelly Aldean, the TRPA Governing Board member representing the Nevada side. We also have the State of California Representative Dan Siegel, who is from the California Attorney General's Office and his consultant Bob Twiss, who is here with him today. The State of Nevada representative is Jason Kuchnicki, who is with the Nevada Division of Environmental Protection. The Nevada local government representative is Karin Staggs. She is with the Nevada Tahoe Conservation District working on the load reduction plans for the Nevada jurisdictions. We have Jason Burke with the City of South Lake Tahoe – he represents the California local governments. Then we have Sara Ellis, who is with the Nevada Realtors and representing business interests in this process. Shannon Eckmeyer with the League to Save Lake Tahoe, representing environmental interests. And then we have Woody Loftis, with NRCS who is our non-affiliated technical expert.

So here is our process today. We are at the second working group meeting working towards developing final recommendations that get advanced to TRPA's Advisory Planning Commission, Regional Plan Implementation Committee and the GB for review and approval. Before that, any recommendations that get advanced must undergo applicable environmental review and we've also integrated into the schedule coordination with the EIP Parcel Specific Working Group that I previously mentioned, and other subcommittees of the Board, and I know that some of you who serve on this working group also serve on some of those other groups. Currently, we have a third working group meeting scheduled for August 20th of this year, which will not be necessary if we can get through everything today and advance a recommendation
. . .a girl can hope.

The last time we met was at the first working group meeting on March 12th of this year. And at that meeting TRPA staff presented an overview of the entire stormwater management system of delivering environmental gain on the ground and basically, this graphic represents how the advent of the TMDL gives us some flexibility to look at the system more holistically. The graphic illustrates the different components of the Environmental Improvement Program's (EIP) Stormwater Management Program (SMP) and also talks about the different relative loadings that we get from various land uses.

While all properties in Lake Tahoe Basin have an obligation to comply with TRPA's BMP requirements, there are different ways that they can come into compliance and this graphic shows that we, in addition to having parcel-specific BMPs, also have other ways in which you can come into compliance such as public/private area-wide stormwater projects. One of these projects includes the Bijou area-wide treatment which was the focus of last month's GB field tour. And while Bijou is an example of an area-wide treatment that deals with properties that are constrained to infiltrate, the *2012 Regional Plan* advanced greater allowances for area-wide treatments increasing the flexibilities so that any property can be a part of an area-wide treatment as long as it shows greater or equal water quality improvements and is part of an adopted area plan.

One thing that was important to note from the staff presentation in March was the discussion of the relative pollutant loadings from different land uses and what this graph shows is that the total suspended sediment pollution potential from a single family residential property, which is the bar on the far left, is significantly less, about 8 times less, than that of a commercial property; and almost 20 times less than that of a roadway. And this information is important for the working group to consider as we move forward when thinking about the most effective use of our limited resources.

At the first meeting, the working group endorsed an overall goal to focus their efforts and a list of objectives and feasibility criteria for their recommendations to adhere to, and these outcomes are provided in Attachment A on page 3 of your *Staff Summary*. So basically, in the big packet that we handed out, it is the third page and it is good to keep this up as a reference because whatever recommendations get advanced, we want to make sure that they adhere to these objectives and feasibility criteria.

The working group also identified nine discussion topics and requested additional data and analysis to help inform their recommendations. Here are the nine topics advanced by the working group for further discussion. Some are a continuation of topics discussed during the Regional Plan Update by the Bi-State Consultation Group, and others extend the context to really look at the entire stormwater management system. Now the question in front of the working group is really where to focus TRPA's efforts and limited resources on the most effective stormwater management strategies.

Let me start with the first two topics which are related to BMP requirements during real estate transactions. This isn't the first time that we've talked about this. And I'd like to take a moment to acknowledge the members of the real estate community that are here in the audience; likely because of this historically contentious topic. If everyone here who is affiliated with the real estate community could just raise their hand . . . okay, thanks.

While some proponents support greater means of implementing BMPs to accelerate compliance by requiring BMP implementation at point of sale (POS), others oppose POS for a number of reasons: 1) it doesn't necessarily focus efforts in the most high-loading areas which is potentially inconsistent with the TMDL. One thing that we've learned with the TMDL and the new science is even if we have every single family residential property with BMPs installed in the Basin, we won't meet our load reduction requirements to meet the TMDL. So, we want to focus our limited resources on the most effective strategies that get us the greatest water

quality benefit. Other reasons include that it limits the potential for redevelopment which is a major tenant of the *Regional Plan Update*, and in this case, we've seen that when someone spends, as an example, \$100,000 to install BMPs on their commercial property, they are much less likely to be willing to tear out those improvements and redevelop that property because it is a significant investment that they've made. And this limits the ability to make gains in other threshold areas like the quality of the scenic built environment which is something that we want to make gains towards in our threshold areas as well as SEZ restoration from transferring development out of sensitive lands to town centers when those areas get redeveloped.

Another concern includes that POS does not incentivize quality installations, and as part of our data needs, we were asked to look at other POS programs, and one that we looked at included the East Bay MUD Lateral Sewer Line Program. This program really boasts a high compliance rate, but in talking with staff there they have actually identified poor quality installation as an unintended consequence of that program because the goal becomes certification for sale not for long term functionality.

Some things have changed since last we met, and based on offline conversations with stakeholders, we seem to have agreement on letting existing programs run and putting POS on hold until outcomes from TMDL implementation efforts can be evaluated. Should they show insufficient gains towards making water quality improvements, POS may be reconsidered.

We also have Bob Larson from the Lahontan Regional Water Quality Control Board here in the audience and Jason Kuchnicki from the Nevada Division of Environmental Protection who I introduced earlier, both who can elaborate when we come back to discuss this item.

What we are recommending is to use existing grant funds to update and enhance the real estate BMP disclosure process. I have two forms that I emailed out last night and printed out for you today, which we can go over again when we come back to this topic for discussion.

John Marshall: I think just for the point of clarification on where we are on the status of our offline conversations, I think there is still a linkage between looking at the real estate disclosure/transaction process to see if gains can be made there in BMP implementation, but not necessarily focusing/zeroing in on POS – this is the little nuance.

Shelly Aldean: You just broke the cardinal rule. We are to remain silent until Shay concludes her presentation.

John Marshall: She was talking to you, not me. (Laughter.)

Shay Navarro: I only have about three more slides left so just bear with me. A number of the other discussion topics that the working group identified relate to BMP enforcement, and this means either enforcement on BMP installation or maintenance of BMPs. TRPA has conducted BMP enforcement efforts for over a decade; we've sent out close to 2,000 notice of failure letters to non-compliant properties since 2003. And through this process, properties are given an opportunity to comply; both TRPA and our partners – the local Resource Conservation Districts - help provide technical assistance to facilitate installation with available funding in an effort to get better installation on the ground. And our aim is to improve compliance rates, and we've looked at other municipalities who deal with large-scale code compliance issues and we've proposed some additional tools to achieve higher compliance rates.

Topics # 3 and 4 highlighted in red above encompass these additional enforcement tools. However, given that they have more broad-reaching implications than just BMPs in that these compliance tools can be used for

other TRPA code compliance issues like unlawful tree removal or dealing with properties with illegal coverage, TRPA staff recommends that these two topics be referred to the TRPA Legal Committee, which is another subcommittee of the GB, and both co-chairs Aldean and Shute serve on that subcommittee as well.

Topics #5, 6, 8, and 9 highlighted in red below, deal with the prioritization of enforcement efforts meaning identifying which properties to target and timing the sequence of BMP enforcement to ensure that we get quality installations that remain effective over time. All properties currently without BMPs have been out of compliance since, at the latest, 2008, however, TRPA has limited resources to provide the technical assistance that I talked about, and we want to ensure we are focusing our efforts where we get the biggest bang for the buck. This hasn't always been the case. And we are learning from some of the unintended effects of our previous efforts. This includes spending a lot of time and resources on land uses and areas that generate low pollutant loads or enforcing parcel-specific requirements on properties that would otherwise be ideal candidates for area-wide treatment participation or properties that would be ideal candidates for environmental redevelopment. We've also enforced on properties in contaminated areas which threaten or pose a risk to our drinking water supply. Given the technical nature of this selection process, the advent of science and information with the TMDL, as well as new allowances with the *2012 Regional Plan*, and development of local area plans, we recommend referring these topics to the EIP Parcel Specific Working Group, which is a group of local jurisdiction and partner agency staff that implement both stormwater BMPs and the TMDL. I know that a number of you that serve on this committee also serve on that working group and can ensure adequate communication between the groups.

Another topic identified by the working group involves incentives to encourage BMP compliance, including a robust subsidy program through reimbursement. TRPA already administers a variety of BMP incentive programs including recent allowances from the *2012 Regional Plan Update* that provides certain exemptions from the calculation of land coverage when BMPs are installed and/or maintained, and the Lake-Friendly Business Program, which really focuses TRPA's resources on high pollutant loading areas by incentivizing BMP maintenance on commercial properties. Some believe these programs should be augmented with additional incentives while others raise concern over the availability of funding, limited resources and question if the effort is really worth the load reduction that is achieved. What we are recommending is continuing TRPA's current programs with existing funding and looking for opportunities to apply for other incentive programs when funding becomes available.

Last slide: Given the volume of material that we want to cover in a short amount of time, and since some of the topics require additional data and information to inform a recommendation, and others have more broad implications than just BMPs, our recommendation for these topics is to engage with other working groups and committees of the Board to develop final recommendations. We'd like to focus the remainder of this working group meeting on Topics #1, 2 and 7, and for the working group to either endorse the staff recommendation or provide direction on necessary revisions after discussion and public comment. We'd like final recommendations completed by August 20th when our third working group meeting is scheduled. So whatever we don't cover today, we can continue then, but if we are able to get through all the topics and advance a recommendation today, then we do not have to have another meeting.

Our final recommendations from this working group, the EIP Parcel Specific Working Group and the TRPA Legal Committee still have to go through the formal TRPA process, being that recommendations will be advanced to the Advisory Planning Commission, the Regional Plan Implementation Committee, and then the TRPA Governing Board for review and approval. So, there will be many other opportunities for the public to participate after today.

So with that, I'd like to conclude my presentation and turn the meeting over to our co-chair Shelly Aldean to start the next agenda item which is Working Group Discussion of Topics, unless there are any questions for me on this overview presentation, or the meeting materials that were circulated last week.

Shelly Aldean: Thank you, Shay, for that presentation. Shannon?

Shannon Eckmeyer: I have a question or actually just a point of clarification I think would be useful for this discussion today. First off, to define the difference between area-wide and area plans and how those may or may not be related through stakeholder discussions. I think there can be some confusion with that.

Shay Navarro: Local area plans are a planning process that was advanced by the *2012 Regional Plan Update* where it is a comprehensive planning process where local jurisdictions can look at a variety of topics including land use, transportation, and natural resources. There is additional permitting authority that can be delegated to the local jurisdictions once those area plans are adopted. Area-wide treatment is a stormwater treatment situation where often you have public/private partnerships and that are treating not just private parcel runoff but also runoff from the right-of-way, and as I mentioned in my presentation, we did a tour for the GB last month looking at several projects and proposed projects in the City of South Lake Tahoe including the Bijou area-wide stormwater treatment. Now, I think what Shannon is asking for is the distinction between which area-wide treatments have to be approved as part of an area plan and which ones do not. Currently, TRPA code, or before the *2012 Regional Plan*, already had allowances for area-wide treatment to go forward for properties that were constrained (properties could not infiltrate the parcel-specific requirements onsite), could participate in other special circumstances including area-wide treatment. And so, Bijou is an example of this. The planning for Bijou has been going on for close to a decade and went forward long before the *Regional Plan* was completed. Now what the *Regional Plan* does advance is greater flexibility for the use of area-wide treatment to incorporate runoff from properties that do not have physical constraints as long as that area-wide treatment is approved as part of a local jurisdiction area plan and is shown to have greater or equal water quality benefits than certain parcel-specific requirements. I think that we will always have some parcel specific requirements like needing fire defensible space, and doing on-site sediment source control, but that is the distinction between the two types of area-wide treatment. Does that answer your questions, Shannon?

Shannon Eckmeyer: Yes, thank you.

Shelly Aldean: Any other clarifications from any member of the working group? Sara?

Sara Ellis: I am not totally familiar with the EIP Parcel Group – is there a private representative on the group?

Shay Navarro: No, it is an ongoing working group. This working group was formed specifically to tackle the BMP compliance topic as directed by the Board, so this group has a finite membership. The EIP Parcel Specific Working Group is an ongoing group that is made up of members who implement stormwater BMPs and the TMDL, so it has partner jurisdiction staff from Nevada Division of Environmental Protection Agency, Lahontan Regional Water Quality Control Board, local jurisdictions from all counties and the City, members from both resource conservation districts, and TRPA staff; I think that is everyone. I don't know if anyone else can think of others, but no, there is not a business community or an environmental community representative. It is more a group of implementers who are working to implement both the TMDL and the EIP which the BMP Retrofit Program is part of.

Shelly Aldean: However, the working group meets in public, the notices are posted, meeting notices are posted, is that correct, Shay? So that people, members of the general public, and the business community can attend those meetings and provide comment?

Shay Navarro: I'm not sure if they meet in public. I'm just starting to participate with them now; I think I've been to two meetings, but I would have to look into that to see if it is truly publically noticed.

Shelly Aldean: Well . . .

Joanne Marchetta: I don't think we've publically noticed. We have a key working group within every program of EIP. It is generally more of a technical working group. And I don't believe, Sara, that we post those notices publically, but there is no reason that outside representatives can't attend. They are not closed meetings.

Shelly Aldean: Well, can I suggest that if there is anyone in this room today, for example Mike and Sara, who would like to be notified of those working group meetings, please provide your name and your contact information to staff so that they can alert you to future meetings of that group.

Shay Navarro: Yes, anyone who is interested can contact me and my contact information is at the end of the staff summary that we distributed.

Shelly Aldean: Sara, go ahead . . .

Sara Ellis: The reason I ask is because their recommendation is to, for #6, to move onto that EIP Parcel Group? And I know that our, the interests I represent sitting here, are very interested in participating in conversations about area-wide in the private part of the private/public partnership. So, I don't know if totally deleting that from this group's conversation today is - gets us - if we are not a part of the EIP parcel group maybe there is . . . We should be talking about that in here because that's the conversation; we have an ability to do that in here and not necessarily there. That's why I was asking. It is because of #6, the recommendation to refer it to the EIP Parcel Group.

Shelly Aldean: Okay, and we're going to get to that, obviously, before we move on to the selected topics. I think we need to build some consensus as to the advisability of referring #3 and 4 to Legal, and #5, 6, 8, and 9 to the EIP Parcel Specific Working Groups. We will discuss that. Clem?

Clem Shute: That's fine.

Shelly Aldean: Dan?

Dan Siegel: I kind of have a big picture reaction sort of similar to Sara's, which is it may be that with some of these that certain concepts could be decided here while some other follow-up could be referred to the committees, but I share Sara's concern about just saying, 'Okay, 90% of everything is off the table, and others will take care of it.' I think some elements may be technical and may be good for others to be focused on but in terms of some big picture issues, it may be better to address them here.

Shannon Eckmeyer: I would just like to follow-up with what Dan and Sara said. I think we all need to remember that this group was convened for a reason and that was because the RPIC, I'm sorry – the Bi-State, couldn't agree on a lot of these points of contention and so I think it is going to be important for us to go

through this topic by topic, and decide on some of the harder issues before we move it to the more technical things.

Shelly Aldean: Jason?

Jason Kuchnicki: Just a reaction to that - I don't know if we're going to have time for that; I do think that we need to prioritize but I just was wondering if, once the TRPA Legal Committee and the EIP Parcel Group had developed their recommendations or worked through these issues, is there an intent to bring it back to this work group for endorsement?

Shay Navarro: That is definitely something that the working group can recommend. It's something that we talked about internally and given that any recommendations will still have to go through the formal TRPA process of the Advisory Planning Commission, Regional Plan Implementation Committee, and the GB, we felt there was adequate public participation during that process that maybe it was not necessary, but if it is something that the working group would like to recommend, that is something that can be done.

Shelly Aldean: Okay, well, let's do this, if you don't mind this recommendation. Let's dispose of some of the thornier issues, and I think that's what we've focused on here in terms of developing final recommendations on Topics #1, 2 and 7; and then we will take a look at the clock and see where we are and then we will address these other issues. Obviously, staff has come forward with specific recommendations in some cases and we can discuss those, provide input, and then either convene, reconsider or consider further the items that are not disposed of today, at the August 20th meeting, and/or schedule an additional meeting of this working group, so that we can advance some recommendations built on consensus. Is that . . . do you think that is a fair approach? Okay. So then, let's move on to Item #5, which is Working Group Discussion of Topics, and let's begin with Topic #1. Shay?

Working Group Discussion of Topics

Shay Navarro: We have provided everyone with a number of discussion topic info sheets. Items #1 and 2 are addressed in the first discussion topic info sheet. And I already gave an overview presentation on this topic. What staff is recommending is to put Point of Sale (POS) on hold until we can evaluate the effects of TMDL implementation, but in the meantime use existing grant funding that TRPA secured and that we have until December of this year, to enhance the disclosure process. And I have distributed two forms for everyone. One is the current disclosure form that the real estate community completes or provides to property buyers when they are purchasing a property and they have to return this form to TRPA within 30 days. We have some concerns with the existing form in that it has an option that says, 'I don't know if BMPs are required', that you can choose which doesn't really tell you anything. Back in 2010, we started the process of enhancing this form, working with the real estate community and the California Attorney General's Office, so we have a draft version of the form which is dated with the 2010 date on the bottom. And as a modification to that, we are referring to whatever information is in the BMP database as being what a property should disclose. And this basically removes any concern of, "Oh, I've got snow on the ground, I can't tell if I have BMPs or not". You just look up in the BMP database and if you have a certificate, then you can mark that you do. If you do not have a certificate, even if you do have BMPs, but if there is no certificate recorded, then that is what you would mark down. And that property would still have to go through a final inspection before it could achieve a BMP certificate. And we just think that that is more in line with giving us the best information that we have. We also have funding to improve the submittal process. We are looking at doing an electronic submittal. One thing that has been a concern over time is that we haven't received a large number of forms over time and we

want to try to make that process easier. We have funding to develop this through December of this year so figuring out the details of that enhanced disclosure is something we can still work through.

Shelly Aldean: Shay, thank you. I know that some of you haven't had a chance to review this amended addendum. The only comment I have is I know it provides for buyers, provides them with a one year window during which to comply with the BMP requirements. I am a little bit concerned about the notation that discloses that these BMPs should have been completed by October 15, 2008. I think that just indicates that our current program is ineffective and I think that should be removed. And I think that there should be an affirmative acknowledgement by the buyer that this is a requirement and that they will do their best to comply with it. So, those would be my only comments, and I know this forum is evolving and will probably, may not closely resemble what we are viewing today, but those would be my recommended changes.

Yes, Woody?

Woody Loftis: My question was on the one year window: what is going to happen at the end of that one year? And the reason I ask that is because I was here in October of 2000 when the first priority deadline came and went, and there wasn't enforcement. So is their intent to hold peoples' feet to the fire at the end of that one year?

Shay Navarro: I would say that our priority for enforcement would go through our prioritization system so whatever properties, whether they've been purchased within a year or not, would be identified and prioritized when we are looking at other factors as well. We are recommending some additional tools such as recording a notice of non-compliance to a property deed which is Items #3 and 4. So, we are looking at making some recommendations of other tools that we could employ to have more teeth with respect to people actually coming into compliance. But right now, I feel like we would continue our enforcement strategy making sure that we are targeting areas in a strategic and coordinated effort to make sure that we are getting not only the most appropriate BMPs for that location on the ground, but also timing that implementation. For example, some areas that we are targeting right now, we are targeting because there has already been an EIP water quality, a public water quality improvement project that has been completed. We don't want to enforce BMPs in areas where there is going to be a water quality improvement project until that project is complete because what we've found is a lot of the private parcel BMPs can get damaged when those public water quality improvement projects go in place. So we don't want to enforce in locations until those larger projects are actually completed, so our enforcement strategy is really to be more strategic and coordinated to ensure that we get the best effects on the ground and use our resources most effectively.

Shelly Aldean: Does that answer your question?

Woody Loftis: I guess, but I mean just to follow-up, my concern is if people start to realize that they don't really mean that one year, then it is a hollow kind of a threat. I am just thinking that if you are going to say in this disclosure that you have one year to do it, then I would say follow-up.

Shay Navarro: We are definitely open for other recommendations from the working group on how to change this form. This is a draft that was put together back in 2010 and we haven't really looked at it since until today.

Shelly Aldean: Clem and then Shannon.

Clem Shute: I didn't get the memo about POS being taken off the table so I just want you to know that's still an issue for me. I am also quite interested and willing to go along with a robust disclosure enforcement process in lieu of that so I'm not foreclosing that as an option. I understand that sometime in the past there was a form that had something in it, or was supposed to have something in it in bold and maybe in red, that said 'Buyer Beware. You could be subject to a fine by TRPA if you don't comply'. And I'd like to see something like that, which is much more . . . you know, when you do a real estate closing these days, you get a pile of papers and you're just supposed to sign them, most people don't read it, and you just initial it and go to the next one. And I'd like to see something which actually puts people on notice that there is a consequence.

Shelly Aldean: Perhaps. In the notation it is in smaller print. "Penalties can be up to \$5,000 per day per violation for properties out of compliance." And maybe that advisement needs to be relocated to the provision that says, "Buyers must comply within one year". I mean, that's the sort of tinkering we can do, perhaps at a later date if there is general agreement. Shannon?

Shannon Eckmeyer: Before we go into the disclosure process, I would just like to frame this conversation and put it into context with what Shay and John said about offline stakeholder discussions. I believe the League was pretty clear with all the stakeholders that POS discussions could only be postponed if other effective solutions were implemented immediately, including a robust disclosure process and also a discussion of enforcement options. So, I just want to be clear that those were the conversations the League had with stakeholders, and it is not something that can be completely taken off the table and might be something that needs to be postponed to the RPU four year review. It kind of depends on what this whole package looks like, that this stakeholder group puts together.

Dan Siegel: Our comments or discussions were very much along that line, too, that if there are robust enforcement improvements and if there is a robust disclosure process in which the forms are actually sent to TRPA rather than there being low compliance, then maybe the timing of that would be important. We are open to looking at postponing POS discussion to the next two year . . . it would be about two years from now, the next four year review process, to see if all these things are working. But it's a balancing, it's not POS off and do nothing else, or do very little else.

Shelly Aldean: I think there's general agreement that much of the consternation, obviously, of a lot of people in the audience, that POS is merely being postponed in lieu of looking at other solutions that will yield the same sort of compliance. So, I guess my question, Shay, and maybe I'm looking at both Shay and Sara, is there any reason why, I mean this is not rocket science, is there any reason why we can't have this back before this work group by August?

Shay Navarro: Yes, we could get some feedback, we could mock-up the form with edits and circulate it by email and then discuss it again at the August 20th meeting if people would prefer that.

Shelly: Okay, so there is general agreement from the people who would be participating in those discussions that we can have it back before the working group at the August 20th meeting.

Dan Siegel: One option to consider is either the \$5,000 penalty in bold red and/or you currently have a matrix in your *Rules of Procedures* about the penalties, the three levels of penalties for non-compliance with this precise BMP retrofit requirement. Possibly having that matrix if they could be large enough, but they have to be large because as Clem said, as buyers sign 50 different sheets of paper, this is just one more and it has to stand out, 'Oh, there's a consequence to this one.' I think that is the most important part of it.

Shelly Aldean: John, correct me if I'm wrong, but that matrix is being edited out of the document. I reviewed the rules, the proposed amendments to the *Rules of Procedure*. So I think what we're going to have to do is, the Legal Committee is going to have to be on a parallel track, perhaps with the group who is working to amend the disclosure forms so that we can marry the two and make them consistent.

Shannon Eckmeyer: I also have a question or point of clarification. I know when I was discussing with Sara the *Saving Lake Tahoe in Your Backyard* pamphlet, I was not sure how up to date that is, if it has been updated recently, and if that is the most effective information to give to buyers when they are buying, if there are other options that we can consider to inform them what BMP compliance means.

Shay Navarro: We did actually just update that form and revamp it both graphically and with up to date information, done probably about a year and half ago, so we feel like it is the best form. It is targeted towards homeowners and we have it available both electronically on our website and we have a number of copies that we routinely distribute to the real estate community. There are a number of real estate professionals who will come in and ask for copies of it to distribute.

Sara Ellis: If we move forward on the real estate disclosure process and enhancement, I want to make sure that I understand. Is the one year date trigger on this disclosure form something everybody intends on seeing in the new enhanced disclosure?

Clem Shute: Well, I don't know where the one year came from. I'd be a lot more comfortable with a shorter time period.

Sara Ellis: I can tell you where the one year came from when we talked about it before. It was to allow for the winter time when you can't move dirt and then what it takes to get an inspection, then get the work done and then get certified. Sometimes that process takes a while so it allows for that, for that winter period there. I'm not saying there's a magic to the one year but I know that was the discussion in 2010, but that was never codified in any way. I just want to know if we, if I go work with staff on this disclosure, what the parameters are of what you want this disclosure to look like.

Shelly Aldean: If think with the limited building season, where you can actually move more than 3 cubic yards of earth, that one year is adequate. Jason, did you have a comment?

Jason Kuchnicki: Yes. I for one would like to see it much more flexible. I'm very uncomfortable with the one year. As a matter of fact, I'm uncomfortable with the enforcement part of it on a holistic scale. I think given the fact that resources are limited, what this process needs to do is it needs to support the TMDL and the local jurisdictions with the implementation of their load reduction plans. And by enforcing and taking resources away in areas where it might not matter, those resources are going to be spent where they otherwise could be focused and lead to an effective solution. I don't know how many times I heard Shay say it, but it is to guide TRPA's limited resources to the most effective strategies, and so I am very uncomfortable with the language. I could live with something more flexible like "may" be subject to enforcement, leaving it open to a one year, or leaving it open to a timeframe, set up your own schedule dependent upon what the local jurisdiction stormwater load reduction plan says.

Shelly Aldean: I will say that in the language that I am reading on the amended form dated 2010, it just says, "Buyers have one year from the date of purchase to obtain a BMP certificate or to establish an implementation schedule with TRPA." So there is implied flexibility – if there are extenuating circumstances, if there is an area-wide solution that might be more effective, so . . .

Jason Kuchnicki: It says, “. . . and will be subject to enforcement should they fail to come into compliance.”

Shelly Aldean: Well, yes, under the existing code they are subject to enforcement. We can tinker with that language to emphasize the fact that there is a degree of discretion with respect to the finalization of these BMPs, to address your concern.

Jason Kuchnicki: I understand that they are bound to the code by that, but I guess it's just that in terms of prioritization, we need to get the prioritization straight. We need to prioritize because resources are limited.

Dan Siegel: I agree with you that resources should be focused where they will get the most benefit. In terms of the BMP requirement, it has actually been a mandate since 1987 and it is a mandate immediately. There's no one year grace period so this is actually, if anything, it is loosening up the current requirements, because the current requirement is today without sale, the BMP is legally required, and there are enforcement procedures for putting in that, technically, it is required that the BMPs are in place now and not even connected with a sale. The real question is how much energy TRPA staff should spend on one thing or another. And I think it is possible to have a small amount of energy spent on this area if they have a good robust disclosure form and a good way of making sure the information/the form comes to TRPA, and maybe simple follow-up letters that are generated by a computer could take very little staff time and most of the staff time could be spent on other things. So, the resources could be spent elsewhere, but that doesn't mean not having this program; it just means not having a lot of litigation and lawsuits against individual residential homeowners who are not complying. Just having limited resources placed here, but effective resources and spending most of the resources on commercial properties or elsewhere where you get more bang for the buck.

Shelly Aldean: Question for Sara: In the current disclosure form, and maybe this has been amended, I'm looking at, it says the *Tahoe Truckee Regional Area Advisory Form* – it says that, “in connection with the closing of an escrow, that Buyers should also recognize it within 30 days of the close of escrow they must complete the TRPA BMP Disclosure Form.” Is there any reason why we can't have this disclosure form or the disclosure that we are amending as an addendum included in the documents at close of escrow, so that at close of escrow it's transmitted to the TRPA rather than waiting 30 days? I mean, when people close on a new property or a new home, they are preoccupied with furnishing it, they are preoccupied with a whole myriad of other things, and I suspect that's what happened. These forms have been filed away and they never see the light of day. So, would it be overly burdensome just to include this in the closing packet and have it transmitted immediately to TRPA once it has been completed?

Sara Ellis: A couple of answers to that. One is that they are somewhat standardized within the four Boards of realtors throughout the Basin that this document is included in our own documents; that we, that the Board provides for our members to use. That being said, it is very important. We wish everybody used a realtor but not everybody does. So, the only buyers or sellers signing those documents are those using our members at the four Boards of Realtors around the Lake. Secondly, this form is a TRPA form and so it is separate. It is identical information that is in the packet that every buyer is signing. And then they are also signing the TRPA form. When you get into it, and there are a few people in the audience that are actually from title and escrow and I am less familiar with that process, but I will tell you in our former conversations about this over the last 12 years, that the concern has been how does TRPA interject itself into telling an escrow company what to include and what not to include? And some of that's just a lot of times people aren't using escrow companies that are even in the Basin, or even in the counties that surround the Basin. The escrow process is a little more loosey-goosey in terms of what the jurisdiction of TRPA is, and how to intervene in that process, and so we've,

in our past, have focused on – the realtor community can provide this through our process and we do that right now, and I think that’s where our limitation is, and if I may, that’s another question that I have for staff, and that is, I think, I don’t want to speak for Dan, but I think your intention overall these years has been that you want people that are coming into property in the Basin, whether buying it or they’re gifting it or however, to be aware that they need to do these things and that’s part of their responsibility of property ownership in the Basin. I think that is something that we’re all interested in. Our concern has always been that because of the limitations of the disclosure form, and the limitations of the reach of the agency, that we are not getting all of the transfers of property in the Basin to be looked at. All those other ideas – stock transfers, gift exchange, judgments, etc. that don’t even generate an escrow process, how do we capture those and let those property owners know what their responsibilities are? My question in the enhanced disclosure process is how are we going about attaining that? So, it goes onto, I’m not entirely sure that even this disclosure gets you where you’re trying to go; and using a transfer of property as a point of information that this is a responsibility.

Shelly Aldean: I think it’s important in terms of, from the real estate perspective, full disclosure. I mean, if you don’t disclose that this property needs to be BMP-ed at some point, or within a year, or within this timeframe, then that has consequences. So, that’s one aspect, but I understand your comment about not being able to capture all of the transactions. I’m just wondering, the Assessor’s Office in each of the jurisdictions records the transfer of property, obviously, from the standpoint of acknowledging a new owner, who should be sent a property tax bill, and I am wondering if the other approach could be to work with the local jurisdictions to have notices sent out with the property tax bill. Because that would capture literally everyone, right? So maybe the group that is working on modifying the disclosure could also take a look at other ways of appraising people of the fact that this is an obligation that they are bound by.

Sara Ellis: We will, as an industry, absolutely, for our E&O insurance, we will always be disclosing BMPs. It’s gotta be part of our communication with all of our clients. But, getting at that, I mean, I remember when we did the vacation rental ordinance in Douglas County, that’s how we contacted everybody – it was through the property tax bill to let them know that there was a new ordinance and that they had to get a license. There are ways of working with staff so that we can focus on more of the recordation process as a notice or transaction trigger rather than really honing in on making sure that this piece of paper gets where it needs to go. Because you’re not necessarily concerned about the piece of paper – you’re concerned that property owners know that they are on notice that they have to do it and there’s a trigger to follow-up enforcement with them. Is that correct?

Dan Siegel: I think that if the buyer particularly knows that something is going to be sent, is in fact, being sent to TRPA so that TRPA will know that there is non-compliance with this property, their . . . I personally as a buyer would want to say either take care of this problem before I take the property, just like get rid of the termite problem, get rid of the dry rot problem, or I want \$10,000 off the price so that I have the money so that I can take care of it because their gonna come after me. So, I’d want the buyer to know enough so that they can make the decision at that point to deal with the BMPs. I think with an inheritance it’s tougher because the buyer isn’t making those calculations, but if someone is purchasing the property then they are thinking about sales price – what am I paying for this, what other problems will this property have and how do I take care of the problems of this property. So whatever way we can enhance that, we can increase the chances that the BMPs are put into place. I think immediate transmission of the information to TRPA sounds like a great idea.

Sara Ellis: You’re going to hear from people in the audience about how that conversation is already taking place. In our MLSs, it’s already ‘click here if it’s BMP-ed or not’. It is a notice on the property and some will

tell you that it is actually a selling point – this property is already BMP-ed, its being done. Again, keep in mind, realtors are making sure that they are doing everything they can for their clients so that the seller does not come back and get sued or they don't come back and get sued. And so that conversation is taking place about these things being required, how much do they cost, lets' negotiate them in the price. You have accomplished your goal of that over the last 20 years of BMPs being required on parcels. That's happening. I guess what I am curious about is where do we go from here? And part of the conversation about enforcement is that if you really are trying to get at new owners in the Basin, on notice, whether they remit this or not, is not what you're after. We're gonna disclose it - it is always gonna be a part of our process. It's going be because it's, in order for us to, again, ensure that we can't be held accountable for it, but I think that there are other ways that we can go about doing this that aren't necessarily so intrusive on the process, if you will. Like going through the County Recorder's Office on a however basis and getting a list of all those people who have a transfer of deed in the Basin and sending them a letter. It's the same thing; this could be a paper for a paper tiger and not getting you to where you want to go.

Dan Siegel: I know staff has talked about an electronic submittal process that would be much easier than the paperwork and mailing stuff in and all that. Could that be somehow utilized so that the information gets to TRPA in a non-burdensome way?

Sara Ellis: When was the last time you bought a house? What did you transmit and how did you do it after you bought your house? I mean, that's what we are really after, that's what you're getting at is that it is the buyer's responsibility to submit this to TRPA, and we tell them to do so, but that's where our responsibility in this ends.

Shannon Eckmeyer: I have a follow-up with what Sara said; and I think the electronic effort is great but again, the burden is on the buyer to enter this electronically so I guess what is TRPA proposing in part of this enhanced electronic process for your follow-up process and making sure the buyers actually do that?

Shay Navarro: That is still to be determined. We have grant funding to go through this process; we haven't started that enhanced process yet. We are open to working group recommendations and suggestions. We have available funding if we want to use that funding to do something else as long as the funder is okay with that. I think that we are open to that so we are really looking to the working group to help provide us with some recommendations.

Shelly Aldean: There are, believe it or not, people who don't use computers, and so, as a society, we are still in transition, so I understand what you are saying: there are limitations associated with the paper disclosure but it is one arrow in our quiver. And I think it is an important one and so I think we need to pursue the amendment of the form so that is as robust as all of us think it should be. And then pursue other avenues, like coordinating with the assessor's offices in each of the counties, taking a look at some sort of electronic solution. So, any other comments at this point before I open it up to public comment? And I think there is a sign-up sheet in the back.

Woody Loftis: One quick comment. I agree. I think that as a notice to the buyer this is great information but as a trigger point for enforcement I'm just wondering cause you could easily, our office gets the parcel database from the Assessor's Office every year and you could easily say, well, this property changed names, and you could easily then compare that to the BMP database and say that this property does or does not have a certificate so then you just select out properties that have transferred that don't have certificates. I think this is back to Jason's point - why are you picking on that group vs. like a priority of where the dirty water is coming from. (Applause).

Shelly Aldean: Well, listen, I understand that our new mantra is getting the biggest bang for our buck but I think that there are multiple components to the effort to bring properties into compliance. And to focus on properties that are most culpable in terms of degrading water quality, so this not an end-all solution but it is one of a myriad of solutions and I think, your point is well taken and I appreciate you, Woody, and Jason, for emphasizing the fact that this may be a very small component of the overall picture, but I still think it's important. If there are no further comments from members of the working group . . .yes, Sara?

Sara Ellis: Just a point of order for the people in the audience, for today, just to be clear, or I don't know if Clem wants to still hear, there is a variety of people here willing to speak on why POS is a bad idea . . .

Clem Shute: I know all about that . . .

Sara Ellis: Okay. So we can just focus on the disclosure element right now?

Shelly Aldean: If think that would be fine for the public, I think this is where we are. POS is temporarily off the table pending the receipt or the development of a more robust disclosure process and that disclosure process will be back before us on August 20th. Is that everyone's . . .?

Clem Shute: (mumbling) That's okay.

Shelly Aldean: Okay. So, for purposes of expediency, if you are here to testify on POS, please don't bother and you can join us on August 20th. If this issue re-emerges between now and then, and if somebody has spoken previously and you agree with the comments that they've entered on the record, please just say, 'I agree with John Falk', because there are a lot of people obviously on these lists and a lot of people in the audience who would like to be heard.

Dan Siegel: I just want to say one thing before the public speaks which is that what we have talked about is a little different than what was in the TRPA Staff Memo in terms of putting, potentially putting off POS. We did not say to some unspecified distant future but to the next two year . . . the next four year review process which will be in approximately two years so it is to a very specific time rather than to some unspecified time in the future and that's important to us. Thank you.

Shelly Aldean: Thank you for that clarification. I'm going to read off three names at a time and if you can just line up to testify, I'd appreciate that. The first one to testify is Bob Poet, Ellen Camacho and Michelle Cutting. Good morning.

Bob Poet: My name is Bob Poet; I am a fulltime realtor both in California and Nevada working with Coldwell Banker Select. I am concerned and not comfortable with the idea of tabling the POS. I believe it should be dismissed out of hand today, and the reason for that is that it will raise its ugly head in two years. I think it should be dismissed because as others who may follow me will detail with great passion anything/any action that imperils our livelihoods so greatly should be dismissed out of hand. It cannot be best management practice. As for the new form, I would only suggest modestly that the line items be numbered and that would make for easier reference. Thank you.

Shelly Aldean: (Applause) Thank you, Bob. I appreciate your enthusiasm, but if you can hold your applause, we'd appreciate it. Ellen?

Natalie Yanish: My name is actually Natalie, and I am speaking on behalf of Ellen Camacho who had to leave. I am the president of the South Tahoe Association of Realtors and I really feel like that we want to be partners; we know BMPs are important and we do disclose these but we are kinda putting the cart in front of the horse - we are not talking about area-wide implementation. Everything that goes to POS or this real estate disclosure process still speaks to a parcel by parcel type of approach and the South Tahoe Association of Realtors supports local government facilitation of area-wide BMPs because we feel that that's probably going to be the most effective way to raise compliance levels. Thank you.

Shelly Aldean: Thank you. Michelle Cutting? Is Michelle here? Okay. John Falk. Good morning, John.

John Falk: Good morning. I am the legislative advocate for the Tahoe Sierra Board of Realtors and I do appreciate the groundwork that you've set out this morning, it makes my job a lot easier. I did want to talk just briefly about the items that are referred to in the next steps. The first item enhancing the disclosure form - absolutely. I think we can fine tune this, I think it can be a better document, a more compelling document, and the Tahoe Sierra Board of Realtors would be more than interested in participating, and regarding the process itself - yes, again, absolutely, if you can utilize electronic submission, not as *the* way of submitting, but as an alternative to hand deliver your mail and then tracking as well, electronic tracking - these would both be very valuable. Regarding #2, much was said by the previous speaker, calling out POS, whether it is now or in the future, we believe should be dropped. It's too specific, too leading, too narrow in focus. If we decide we, meaning you, decide that the process that is in place is insufficient, then I think we should come back with an open mind and a clean slate, and say what might improve upon this process rather than this is failing, now we're going to default back to this ill-conceived, ill-advised POS provision. So I would suggest as it was by the previous speaker, two speakers prior to me, that POS should not be called out in the specific. Regarding #3: the forfeiture of securities as a topic - that's fine. We think that referring that to Legal is reasonable. Opportunities to free up this money if done correctly could be more than acceptable and could actually move the issue forward. I wanted to focus a bit more on #4. Referring #4 to the Legal Committee to any other committee, I say no. I say no for this very specific reason. That this group can and should take up this issue and should recommend against expanding TRPA's enforcement authority to include attaching to title. And there's a specific set of reasons for this but rather than belabor them on and on, suffice it to say that this authority already exists and rests with local government so at the very least it would be duplicative and unnecessary. It is also troubling that the Agency would seek to expand its ability to insinuate itself into the transaction rather than stay at the 10,000 policy level, direct its partners at the local government level as to the standards and then let local government decide how to best achieve those standards. So, we would very much like you to take up the issue and then formally recommend against. And then finally, subsidies - absolutely yes. The problem as has been articulated by staff quite well is just the lack of financial opportunities and if we can find partnerships out there that could make this more feasible, we would be very interested as well in promoting that. Thank you very much.

Shelly Aldean: Thank you, John. Next up - Gayle Kolb, Alvin Steinberg, and Linda Larrance. Gayle? Alvin? Pass. Linda Larrance? Linda? Okay. Diane Brown?

Diane Brown: Good morning. My name is Diane Brown. I am a realtor with Lake Shore Realty. I am a licensee in Nevada and California. I am currently the past president for Incline Village Board of Realtors and the current State Chair for our State Association for Global Committee. We talked about many things this morning, it has been very informative. I know that with current regulations we have houses that have cycled through the POS process in Incline and with the current POS issues that you've talked about, it would take 40 years to recycle through all and that doesn't even count the individuals who don't have their property up for sale. One of the points that came up here with this meeting which I thought quite - when you were asking for

input on where your grant money might go, and talking about notification, we have to access the TRPA board, actually the TRPA website, to find out if people are BMP compliant. We all embrace the BMP concept. Why can't TRPA look at their own information on their website? You sat in regulation fining the people that have already been notified and should have had this in place, as you stated sir, and then start using that revenue to staff the people that are needed to enforce the regulations. It seems like a no brainer to be self-sufficient as far as the grant, granting and funding. Thank you.

Shelly Aldean: Thank you. Sharon Kerrigan and John Frankovich? Followed by Jennifer Fortune. Good morning.

Sharon Kerrigan: Good morning. Thank you for the opportunity to speak. My name is Sharon Kerrigan and I am the Associate Executive for the South Tahoe Association of Realtors. And I just wanted to say a couple of points really quickly. One, as Sara Ellis mentioned, in our MLS we do have fields specifically for BMPs. The listing agent does state in the field whether or not BMPs are completed. If there is a certificate that has been issued, and if so the date; whether it is unknown or if there is no certificate. So that is being tracked, that is being discussed by the real estate agent during the transaction. It is already a point of negotiation between buyer and seller. Also, we received a letter from Ron Yokotaki with Associated Mortgage who was unable to be here today. And if I may, just read his, what he has written. He understands this is a very important meeting but he was unable to attend and wanted to express his opinion on some ideas being suggested pertaining to the transaction, specifically filing a notice of non-compliance, requirements of compliance prior to close of escrow and escrow holdbacks. He states: "From a lender's perspective, the overwhelming majority of loans today are made through Frannie Mae, Freddie Mac, FHA, VA, or other institutional lender requirements. The vast majority of loans after originated are sold almost immediately to an entity in the secondary market. If the ideas listed above were implemented, it could severely impact and impair that POS of the loan and have catastrophic impact on the real estate market and Lake Tahoe. To take each point separately: filing a notice of non-compliance with the County and compliance prior to close of escrow – this would create a cloud on title as the lender would require satisfaction and removal from title before closing a home purchase. As most purchase transactions are typically 30-45 days, finding a contractor, completing all work, re-inspections by the agencies, and removal of non-compliance from title could possibly greatly extend the closings which could be critical in a purchase transaction or cause it to fall out altogether. Escrow holdbacks for work to be completed at a future date after escrow closes is not an acceptable practice for institutional lenders. Having an escrow holdback creates an incomplete loan package until work is completed and makes the loan unsaleable until completion. In today's world of sale ability, most lenders do not allow holdbacks for work to be completed after close. If the Lake Tahoe Basin is unable to utilize institutional lending in the acquisition of property, it would reduce the purchase market to all cash, owner financing or portfolio lending. All of which would devastate the real estate market. Whereas I can appreciate the need for BMP programs, the aforementioned ideas for implementation would be devastating to the market and the Lake Tahoe economy." And so he states, "Thank you for your consideration." And I've emailed this to Shay. He just emailed it last night so I apologize for the late notice. And then lastly, we just wanted to say that we feel that the focus should be on the area-wide implementation rather than looking at how we accelerate compliance parcel by parcel. There are economies of scale and we feel that it would be a much more effective use of resources for TRPA staff, for money by our local people that live here, and that, in terms of total reduction, that it would be more effective. Thank you.

Shelly Aldean: Thank you. John Frankovich? Good morning.

John Frankovich: Good morning. My name is John Frankovich. I'm an attorney with the law firm of McDonald, Carano & Wilson in Reno, Nevada. I represent the Incline Village Board of Realtors. I have been

involved in real estate transactions for most of my career including many transactions of Lake Tahoe. The disclosure requirements that you've been talking about, effective disclosure, I think, can have effective compliance in my experience. I agree with what Mr. Siegel said earlier, that most buyers confronted with disclosure will say one or two things: Either I want this done before I buy or close; or two, I want a reduction in the price, and I think that that may be as effective. But disclosure is one thing; imposing restrictions on the sale or transfer of property is entirely a different matter. As the POS issue that you have before you, under the law that is called a restraint on alienation, it is disfavored in the law, it imposes obligations not only on the property owner but on escrow companies, title companies, and local county recorders. I suggest that there are very few restrictions on the transfer of property in the State of Nevada on county recorders, and those restrictions that they do have have come from the Nevada legislature and not from local government. So, I question, seriously question, if TRPA would have authority to impose such an obligation on recorders to say you cannot record this transaction until a certificate has been delivered. As I say, in the State of Nevada, those are required to be authorized by the Nevada State Legislature, and with all due respect, TRPA has, I think, very little authority over local elected offices in the State of Nevada including the Recorder's Office. I just wanted to put that point on the record that there are some serious issues with respect to the POS that are different than the disclosure. Thank you for your time.

Shelly Aldean: Thank you. Jennifer Fortune? Good morning.

Jennifer Fortune: Hello, I'm Jennifer Fortune, realtor with Chase. It sounds like everyone knows we do use the TRPA BMP Disclosure, but our offices also have created the government agency disclosure so we actually go a little bit farther than what you're mandating in our offices to disclose BMPs. But after today's meeting I think maybe on page 4 one of the slides where it clearly shows the higher runoff concentrations, maybe we should also be educating our public on that issue as well. Thank you.

Shelly Aldean: Thank you. Karen Marsem, Craig Woodward, and then Michele Norris. Good morning.

Karen Marsa: My name is Karen Marsa, the Executive Officer of the Incline Village Board of Realtors. And I wholeheartedly agree with everyone who has just spoke before me and with everything that Sara said. We also do have an MLS and we do have the BMP click-off portion whether it is yes or no, and what they need to do on that on our MLS as well. We also definitely support the enhancements to the current RPA disclosure and area-wide, rather, than community-wide, stormwater solutions. In addition, the prioritization and focus of the community by community by the TRPA, the BMP partners, to educate, facilitate, enforce and certify, and that is something that we're really very involved in in Incline. Our percentage of compliance is quite high, so thank you very much.

Shelly Aldean: Thank you. Craig Woodward? Is Craig here? (Craig makes some noise that he is in attendance but declines the podium.) Alright, Michele Norris? (Michele states that they have covered the concerns that she had and declines the podium.) Andrea Peldszuz? (Pass). Ramona Biglow? (Pass) Charlyn Enstadt (Pass) Cheryl Delehanty? (Pass) Sandy Junell? (Pass) Jim Wire from Chase International?

Jim Wire: Hello, my name is Jim Wire. I'm a local real estate agent with Chase International. I also sit on the Board of Directors for the South Tahoe Association of Realtors. I've also been a local resident for 32 years now so I understand the history of everything that is going on. I am here today to tell you with complete confidence that the real estate agents are doing the proper disclosure with BMPs. And the reason why I know that is because if I don't get my broker a signed BMP disclosure which is signed by both buyer and seller, I don't get my commission check. And being in the front lines, I know that all my fellow real estate agents are doing the same thing, I have yet to meet an agent who hasn't provided a BMP disclosure. For that reason, I

don't know why you're concerned about making sure those disclosures get sent to TRPA. My main concern as a real estate agent, I'm sure other agents feel the same way, is that if we don't disclose it, we could be faced with a lawsuit later on. The last thing I want is a buyer coming back to me and saying, 'Hey, how come you never disclosed the BMPs? I'm now faced with \$20,000 worth of work, I'm gonna sue you. I'm gonna hold you accountable.' What I would rather hear from my client is that, 'Hey Jim, I know you told me about the \$20,000 BMP implementation, I'm being told I have to do that now, I don't have the money, can you sell my house?' I'd rather hear that. (Audience laughter.) But what I can tell you is, yes, we do have a required field in our MLS that states whether – it has four categories. Whether the property is certified, if there is no certification, if an analysis has been performed, or if it's unknown. I can tell you that tracking the sales for the past year, 17.8% of the homes sold were certified. If you look at the numbers only, I don't think a POS is really going to be that effective. Something that I do personally as an agent, and I'm sure other agents do it too, is when we are discussing the BMPs with our clients, you know, in the disclosure it says we are all supposed to give them the Backyard pamphlet, well that really doesn't tell you much and I like to take it a step further. One of the greatest frustrations as a real estate agent is that we are dealing with a lot of unknowns. We have usually 10 to 14 days to do our buyer investigation period where we are trying to find out the condition of the property, we are giving the buyers' environmental package required by the State that talks about radon, lead based paint, and other natural hazards. So it is a lot of overwhelming information and a lot of information that we have to find out. Often times, there are no evaluations and we are dealing again with an unknown. We have a short amount of time to find out what that unknown is. And unfortunately, we haven't been able to rely on our local agencies to provide those evaluations for us in a short amount of time. So, often times what I recommend to my, I shouldn't say often times, but I always consult with my clients, is that they do their own BMP evaluation, and it usually costs \$150. Sometimes clients aren't always willing to do that, but if they do do that, then we are able to use that as a leveraging tool in the purchase. The primary concerns for buyers is first price - negotiating the price, the secondary priority for a buyer is condition of the property. A lot of times there's a lot of repairs that need to be done to the property like plumbing leaks, even though the BMP is used as a tool to try to negotiate a better price or whatever, sometimes we don't even get, not only do we not get the BMP implemented, but often times we don't get a lot of the repairs implemented. Sometimes the sellers are even unwilling to repair plumbing leaks, so these are all things that we do discuss with our clients, we do try to educate them, we do try to use as a negotiating tool. So, I do think I have complete confidence in the real estate community that we are doing our job with disclosure. I think you're time is better spent trying to disclose to the rest of the public. I think the partnership between local government entities and the private homeowners is where that discussion needs to take place. You need to do more of a public/private partnership to go neighborhood by neighborhood and come up with, first of all, evaluations because that's the most frustrating part of my job is knowing what needs to be done for BMPs, what the cost is there. So, I do have something to negotiate with, but also come up with a plan to implement that evaluation. And I think that needs to be a discussion between both government entities and the private homeowners. Thank you.

Shelly Aldean: Thank you, Jim. Next up – Gigi Haskins followed by Monica Porter and Teresa Souers, from Pinnacle. I apologize if I've mispronounced your name. So, Gigi? (Audience member indicates that Gigi and Monica are not there.) Okay, Teresa?

Teresa Souers: Teresa Souers from Pinnacle Real Estate. Real quickly on the disclosure – oh, where did he go? That's who I was gonna focus on – Dan. (Audience laughter.) I was gonna make eye contact with that chair right there (pointing to Dan Siegel's chair.) So, it's moving to you now, okay? I'm gonna get really back onto POS because to me that's what I wanted to speak on for the moment, but in regards to disclosures, again, trust me, you might think everybody signs a bunch of papers forever, but one thing I can assure you just like Jim did, is on this local area governmental agency and the BMPs, we do make sure they review it. And you know what, half of our buyers already know about it. They've already read it. And they want to know what

it's about. And then when we show houses, we tend to point out examples as we go through the house. You see this? This is an example of the gravels; do you see this? We show them, we teach them as we are going along. That's not the problem, but what came to my mind, one Sara was pointing out, and I totally forgot about this – the number of sales that take place where they are not represented by a local realtor. You've got bank-owned properties – they have no requirements. You've got investors that want to use their escrow company down in Southern California. We have no control. Sharon, what is, when we do the rankings, is it like the out of area, like within the top five? (Sharon in the audience states: non-member is number one . . .). Okay, non-member is a classification we have on realtor/sale production; non-member meaning they are not a member of our local association - is the number one source of sales in this area. So, please keep that in mind when it comes to disclosures. It's good to have it, have some realtors on board, get teamwork going, but don't think that that's going to be the answer. Okay, so back to the POS. The concern I have is getting this community to support it. We support it. We support it as realtors. We really do. We've been pushing for . . . there you are (referring to Dan Siegel who now returns to the room). You can tell him what I already said. Alright. You know we work with these people, these buyers and sellers every day, and the comments we get from them are things like, 'Well, if it's just a POS, I don't really need to do it, I don't plan on ever selling.' We hear things like, 'Why should I do it? My neighbors on four sides of me haven't done it, what's the point? It's not going to have an effect if I do the BMPs.' We hear comments like, 'The time it takes to get an evaluation; so I want to sell my house.' We've actually had clients that tried to get an evaluation out. They can't. They are on a waiting list. It takes months. And certainly if there is snow on the ground, we can't get an evaluation. But if you put something on a community level, if everybody in the community knows that this is of community importance, and everybody is going to be affected and have to be involved, you're going to have more success. My office is right on Harrison Avenue, which you all know it's been going on for the last two months – we've lost some business, all of us in the little community there has – my next door neighbor, the restaurant shut their doors for a month because they tore up the whole street for the . . . but you know what the comment was among all of us business owners? "This is really cool. This is going to be good when it's done.", and everybody's been very supportive and cooperative. Yes, we've complained, but not horribly. The overall comments have been positive. If you can consider putting your emphasis not on parcel by parcel which, my gosh, might take what, 30 something years, and 10 years ago I did my BMPs; if I'm not maintaining them, they are probably no good anymore. You know, if you quit focusing and spending your time and effort on this POS, and put your efforts into community efforts, area by area, you're going to get more support from the community, probably economically more results. Yes, Incline can be very compliant. Poor South Shore – we've got people that can barely pay their house mortgage. They don't have the money to pay for this sometimes. They might want to, but they can't. I know a few that did do it because they got the decks, or at least the promise of maybe adding on a deck. A little incentive. But please look not at POS. It's not going to work. Please look at area by area. That way, no matter who sells this house, if it's a local, an out of area, a bank-owned or whatever, you're going to get your compliance made a lot sooner. Thank you.

Shelly Aldean: Thank you, Teresa. Next we have – it looks like Warde Dozier from Pinnacle? That's Amanda? You're penmanship is worse than mine. Okay. Jeff Waldie from Pinnacle? (Pass.) Kim Valverde? (Pass.) David Simko?

David Simko: David Simko with Coldwell Banker. And operating both in Kings Beach and Incline Village. One thing for your consideration, a complication would be how would you do the POS in a condo situation? Where the condo association hasn't yet done their BMPs and somebody wants to sell their one condo? It could be affected by all this. So, that's something technical that has to be looked at. And then beyond that, just a second comment would be, and I think as John was addressing financing; would there be some kind of creative financing that can be done with the BMP situation whether it is area-wide and/or specific to a

property? You know, we have in our business we have flood insurance for instance, so something like that might be workable. Thanks.

Shelly Aldean: John Eppelito? Good morning, John.

John Eppelito: Good morning. My name is John Eppelito. Thank you for giving me an opportunity to speak. I'm a homeowner in Nevada in the Basin, and in California I'm a broker associate and in Nevada I'm a broker salesman. There were a few things that came up that I didn't understand. TMDL and EIP Parcel Group, and the biggest thing that came up was the \$5,000 per day. To me this is much bigger than the POS. I'm not sure how this entity came up with \$5,000 per day, but that turns out to be a \$1,825,000 per year fine if people don't do their BMPs. To me, if this entity still wants to be a valid entity and not be looked at as a laughing stock, you need to get rid of the \$5,000 per day unless you are planning on fining people \$1,825,000 per year. \$5,000 a day needs to be off of the form and that's the biggest issue and the most ridiculous thing I've seen today. Thank you for the opportunity to speak. (Applause.)

Shelly Aldean: Thanks, John, that's actually . . . ladies and gentlemen, please refrain from clapping. That is actually in the Compact, which was approved by Congress so, ya know . . .

Voice from audience: "Are they here now?"

Shelly Aldean: Are they here now? I think they're in Washington. Alright. Anyway, and I apologize for the use of acronyms. We have a lot of them and so, the TMDL is Total Maximum Daily Load, EIP is Environmental Improvement Program, just for your information. Okay, Bob Roseblade? (Pass.) Linda Sendrey? (Pass.) Terry Laymance? Not here? Terry? Come forward, please.

Jim Stahl: I'm Jim Stahl, Old Republic Title on the California side. I just wanted to thank Jim and Teresa – totally agree with their comments. All the clients we see come through our office are totally disclosed and know what's going on. Just addressing the POS again and possible escrow holdbacks: the Dodd-Frank Act almost eliminated escrow companies from being allowed to holdback. They are just worried about, 'Are we gonna pay them interest? Where's the money gonna be? How long are we gonna hold it?' After a while, it would actually ("a sheet"? Cannot decipher) to the State, so looking at manpower and resources, you would almost have to develop your own escrow to hold that money and see what's gonna do with it would take a lot of time and effort. So that doesn't put it on top of our list. One thing just echoing again with Teresa and Jim, making the process easy – I tried, I've been here for 20+ years, tried to find out what I needed to do for my BMPs, hired a company, they took a month or two to get in, another month or two to give the report – it was way over what I thought, hired another guy, they were \$3,000 or \$4,000 apart and, like most people living in Tahoe, we like things easy, so it was – it's easy to just throw both of those away. If there was some standardized way to make sure and get, you know, a good number and instead of fining maybe help fix those BMPs, I think that would provide a lot more education and profit than just POS.

Shelly Aldean: Thanks, Jim. Ginger Stoner? Pass? Mimi Komito? (Pass.) I'm sorry – I can't read your first name – last name is Campbell? With Sierra Nevada Properties. Edie? Good morning.

Edie Campbell: Good morning, Edie Campbell. I'm a realtor in Incline Village with Sierra Nevada Properties, also a homeowner that is BMP compliant. I took that very seriously when I purchased my home. I bought it in October of 2004. I was not able to become compliant until the following season due to snow. So that is my objection to a POS, as a lot of our homes are sold in a timeframe that evaluations and becoming compliant is not possible. I also would like to go on the record for myself and for my fellow realtors – a comment was

made earlier that when we have paperwork for our clients, we have a stack of papers and they just go through and sign those and check those without reading them. I personally take offense to that. It takes me an hour and a half to two hours to write an offer because I go through everything with my clients and explain everything. Before I get to the offer table, my clients have been explained about TRPA, defensible space, BMPs, everything. It is in the contract, it is a negotiable point; I take it very seriously as do my clients, and we've been very supportive as a community, and we will continue to be so, but I will not support a POS. Thank you.

Shelly Aldean: Thank you. Next is Tracy Sanders, followed by Jean Merkelbach and Cameron McKay.

Tracy Saunders: Man, I never should have given up my maiden name – Nash. No one ever mutilates that. Hi, I'm Tracy Saunders. Thanks for meeting today with us. I did a lot of studying in college. I was a recreation major, and I did a lot of study on watershed management, and what you're doing is illogical and expensive. You're trying to protect lake quality as stated by your presenter - single family residences will not make enough impact for total daily maximum load. What was appropriate in 1987, 27 years ago, may not be appropriate today. I feel like we are ostriches with our heads in the sand. You've had no one from either the Nevada or California Department of Transportation on this committee, yet your own chart shows me that the biggest problem with clarity of Lake and preventing runoff into the Lake, is that organization - our roads. I can't even imagine that this committee is focusing on single family residences with this much time and energy when the biggest impact is definitely from our roads. TRPA has done this to themselves. You talk about the Compact and that it has the ability to fine \$5,000 a day, yet you are the joke of the community. You have never sent out a fine. And because you are not willing to do your own jobs, you want to put that own-ness on the real estate community. This is not acceptable. Staff yourselves and fine people. You send out that first \$5,000 fine and I'm sure you'll have a rush of people trying to complete their BMPs. I would be happy to show you how to counsel both buyers and sellers. We've talked a lot about the buyer in this process, but when I take a listing, and if it's in the winter, my clients sign something so that I can call the Nevada Conservation Department and they will come out when the snow, if we get snow, thaws and do an evaluation. I think that is as huge a part of my job as taking a listing is to counsel both my buyer and my seller, yet we don't ask for a form until it is time for the buyer. We also may try something different as TRPA – hey, how about when I take a seller and they get their evaluation, you pay for an ad in the paper because they are trying to sell their home? And say – they have completed their evaluation. I mean, do something out of the box totally crazy that may be positive instead of negative. Finally, I think I'm semi intelligent but I feel like this whole discussion and this whole group, and I keep hearing it over and over again, is that we are stuck on BMPs, and I really, really urge this group to go back to the drawing board and look. TRPA has had their staff cut year over year and the staff they do have is pretty incredible in my experience. You are asking them to do something that is a grant funded program. We haven't discussed that, but in order to get an evaluation, TRPA does not have designated staff to come out and give us, give our homeowners an evaluation. So, what happens when that grant dries up? And it's nothing that's been discussed today in this forum, so I really appreciate your time and effort. I think we all agree – look, every one of us here wants to sell a home. I can't sell a home with a dirty lake. We all are on the same page, we want to protect Lake Tahoe, but we want to do it in a way that is impactful, cost-effective, and good for our environment. Thank you for your time today.

Shelly Aldean: Thank you, Tracy. Jean Merkelbach? And then Cameron McKay? Cameron? Not here? Okay. Terry Hunt? Okay. Tamara Lightfoot? (Pass.) Is it Gina Johnson from Chase? Not here? Larry Finkel from Chase? Pass? Doug Clymer?

Doug Clymer: Doug Clymer with Chase International Realty and a member of the MLS Committee for South Lake Tahoe Association of Realtors. And I just want to speak to the amended disclosure. It looks as though as

long as that word “buyer” appears there in timeframes for the buyer, that I’m gonna have to disclose that this is the POS disclosure. So, I think the verbiage in the amended shouldn’t be just related to the buyer. That makes it POS. It should be property owner, whatever, but as long as you have the verbiage “buyer” in here, it makes it a POS when the timeframe is within one year. So, I feel using this document, I’m gonna have to disclose to my buyers that this is a POS document. Thank you.

Shelly Aldean: Thank you. David Cloutier? Not here? Either that or he didn’t recognize his name the way I pronounced it, which is possible. (Audience member indicates that he had to leave.) Okay. Neal Fincher? (Pass.) Okay. Jill Teakell? Good morning.

Jill Teakell: Good morning. I’m Jill Teakell and I’m with Century 21 in Tahoe Paradise and I’m also the immediate past president of the South Tahoe Association of Realtors. So, where as I primarily agree with people who have already spoken and said that we need to change priorities a little bit, I just want to add one thing with regard to notifying the property owners so that we can gain their understanding and support. And that’s if you are going to be reaching out to them, notify all of them. Let everyone know if they don’t already have a BMP certificate, they are overdue. And if they already do have their BMPs, then let them know they need to be maintained.

Shelly Aldean: Thank you, Jill. Mike Young? And then Blane Johnson. Mike? (Pass.) Blaine? Ron Hoy? Gwen Niccoli? Claudette Miles? (Pass.) Erin Spicer? (Pass.) Madeleine Gutierrez? (Pass.) Joe Pilipko? Looks like Moe Leonard? No? Dan Spano? Sue Abrams? Sue? Good morning.

Sue Abrams: My name is Sue Abrams. I’m a broker and owner of Abrams Realty and I’ve been practicing real estate in the Basin for over 37 years. So, I know the whole history and I know the agendas and I know the motives so I don’t even want to go there. I want to talk about a couple of technical things that might help facilitate what you are trying to do. First off, Doug is correct in the terminology of using “buyer” on your form – it’s completely wrong. It needs to be changed. Secondly, I want all of you to know that on your previous form and even this one, I black out item at the bottom, Item #E, and I have my buyers and sellers initial that it’s been blacked out. This is a TRPA form. I don’t work for you. I am licensed with the State of California. I am not licensed under you or for you. I do not want to be referenced on any of your forms. I do not want to be dragged into your litigation. And I do not want to be dragged into your form of taking property. Because most of your actions are a form of taking. So, I am requiring if you are not wanting to take it off, I’m letting you know I do. Okay. I take that statement off the form and black it out. I’ve done it for years and I’ll continue to do it. Okay, now, a couple other things. You need to understand what a realtor is, and what we are mandated to do by the State of California, not by any other agency. We have to be, umm, we take courses, we take exams, we have licensing, and we are monitored. We have a fiduciary relationship to our client. Sometimes it is the buyer and the seller if we represent both, or it’s only the buyer or it’s only the seller. I do not nor does any other real estate agent in the entire State of California have a fiduciary relationship to the TRPA. And when you try to make me have that fiduciary relationship, you then violate my position with my clients. It is my obligation to give that fiduciary relationship to my client and only my client. That is what I am there for. I am also there as a provider of information. For our local Board, I don’t know any realtor that would be dumb enough not to provide information that they had knowledge of. That’s why we inform our clients whether buyer/seller. What you might be sending us from your agency, not whether or not we agree with it, not whether or not we support it, not whether or not we want to be any part of it, but because we are required by law to share all information that we have knowledge of. You may not use real estate, lending, escrow, title to facilitate your agenda. You are violating the law by trying to do this. You are not, as an agency, a principal to the transaction. You do not even have the legal right to pick up the phone, call an escrow company and say to them, ‘I want to know if you have an escrow open on this property.’

Because that escrow company by law, if you are not a principal, does not have any right to disclose or make you a party to that transaction. So this entire meeting and this entire agenda is a joke. And I, I read what the Congress of the United States put together for the TRPA. I took the time to read it - I read it 37 years ago. The reason why you are not successful as an agency is because you over-step your grounds, you over-step your legal rights, and you violate the rights of the individual and private property over and over and over again. That's why your agendas fail. Even the few good ones that you've had. And until you change your thinking, you will not prevail. And that's sad because no one comes to Tahoe and no one lives here because they want a muddy and dirty lake. Nor do they want a forest full of dying trees. So, once again, regardless of what your form is printed, you have no right to speak for me on any form that you put your logo on. You have no right to reference real estate agents on any form that you have your logo on. I am not licensed by you. I am licensed by the State of California. I do not work for you. I do not represent you.

Shelly Aldean: Sue, we got that.

Sue Abrams: Okay.

Shelly Aldean: We got that.

Sue Abrams: So, that needs to be changed.

Shelly Aldean: Okay.

Sue Abrams: Number 2: You need to understand what California real estate law is and I suggest you all take a course because then you will understand whether or not you can lay these burdens on us that you should be doing yourself. It's a form of taking and you cannot ask us to be a party to it. Thank you.

Shelly Aldean: Thank you, Sue. I think the objective is to form a partnership, if I may be so bold. Because our objectives are not mutually exclusive; as you stated on the record, we all are in favor of a clean Lake Tahoe because without a clean lake, you won't be closing transactions and without a clean lake, we will have failed in our mission, so I just . . .

Sue Abrams stated from her chair: “. . . we're not a partnership . . . and . . . don't imply that we are . . .”

Shelly Abrams: Sue, I'd . . .

Sue Abrams: . . . in fact . . .(inaudible comments)

Shelly Aldean: Sue – Sue . . . I don't want to get into a debate, I just . . .

Sue Abrams: . . . on this form . . . to the public . . . (inaudible comments)

Shelly Aldean: No – no, no – Mam - Mam -

Sue Abrams: . . . that we are a partnership . . .

Shelly Aldean: Mam – I . . .

Sue Abrams: . . . a partnership and we're not . . .

Shelly Aldean: Mam – I appreciate that, but in, philosophically, we are partners. In my opinion. That's just my opinion. And I'm only one member of this work group. Anyway . . . Sue, thank you. You are very impassioned, I appreciate your comments, you bring up some very valid points. Next, Craig Zager? Is Craig here? Tony Cappel? Tony? Is it Klaus? Klaus Utecht? I'm sorry. You can correct my pronunciation on the record.

Klaus Utecht: Good morning. My name is Klaus about your house, 30 years realtor in the Lake Tahoe Basin. What are you laughing about? (Laughter in audience.) Thank you for all your recommendations and so forth. I'd like to come back to this little mark here for all your information (referring to TRPA SFR graph), that single family residences, that's what we're talking about today. Do you have a figure of what percent of single family homes have complied so far in the last 20 years or how long have we had this ordinance?

Shay Navarro: We have less than 50% compliance based on . . .

Klaus Utecht: Mmm hmm . . . I learned 76 years ago when I was born that you cannot pursue the last 10% to do something 100%; you spend more time on the last 10 than the 90 that you accomplished. So my point here is, my suggestion is to forget this altogether. And rather than to talk about handcuffs and \$50,000 or \$5,000 a day, my suggestion to all of you is to educate the people. We all come to Tahoe for a clean lake. I've been here for 30 years. I love the Lake. And the education would be much more important than the . . . whatever you call it . . . getting people scared and what's going to happen and if you don't and whatever. So, these other points are so much more important – we call it runoff concentrations than these 50% that we are still pursuing, so people can do this out of their own education, they can do it because they agree that it is a good thing rather than to make Lake Tahoe a police state and make us their police officers. We are not going to do it and I want to thank all of you. You are not TRPA. Your last name is not TRPA. You are offering your time and efforts to make some sense in all of this. My suggestion is to concentrate on other issues in the Basin that have not been addressed such as getting your green wave going Highway 50 instead of stopping at every light, at a redneck speed, an effort for a long time. It is not part of your working group, you are here for BMPs. My suggestion is to forget that single story, or that single family residence, pursuing that, all your efforts and all that money, and I'm sure you all get paid big money for being here today. Could be spent on many other things such as the . . . we could for instance get rid of spiked tires that ruin our streets and roads that we have to redo every three years – it's pathetic that people are still – taxis, companies - driving around our community with spike tires from October through May. Thank you very much for all your time and your efforts.

Shelly Aldean: Thank you, sir. Jonathan Kolb? Is Jonathan here? Natalie Yanish? Natalie? Are there, Jeanne, could you check? Are there any more names on the sign-up sheet? Okay, well then, I'm just going to open it up to the general members of the audience. Good morning.

Chris Plasteris: Good morning, my name is Chris Plasteris. I'm the President of the Incline Village Board of Realtors, I'm on the State Legislative Committee, I served 12 years on the North Lake Tahoe Fire Protection District, and I've been a realtor in the great State of Nevada and in the Basin for 35 years. A couple of points: it seems to me that what we are dealing with is 4% of the overall problem. Many people before me have made that point. I would like to point out that 62% of Nevada is compliant in BMPs. 70% in Incline Village are compliant in BMPs. So, it seems to me that only part of the problem is getting addressed. We're not 100%, I get that, but having served on many committees through the years, this isn't too bad. I think there might be other things that you might want to consider doing that would be more productive. And by the way, I've been on that side of the mic and you have a very difficult job, and I applaud you for being here. I know we don't always agree on the same things, but thank you for hearing us today.

Shelly Aldean: Thank you. Any others? Good morning.

Yvette Shipman: Good morning, my name is Yvette Shipman and I also work the California side and Nevada side as a realtor, and what I'm finding to be the biggest challenge is the fact that most of the BMPs you are asking many people to spend time and money on are rendered ineffective so quickly with the issue of maintaining the BMPs. And people who want to do what you want them to do have a very hard time spending a lot of time and money on something that is going to be rendered ineffective very soon. We are going to have a hillside with rocks and silt, and the water's going to flow into the lake. This, I believe, is your biggest challenge because if you can conceptually get, put out an approach that people can buy into, logically, they will help you, and that's what I think you need to do . . . excuse me . . .

Shelly Aldean: Thank you. Laurel?

Laurel Ames: Laurel Ames, Tahoe Area Sierra Club. Thank you for the opportunity. The Tahoe Area Sierra Club is committed to this program, and BMPs are really important to local government to help meet their load reductions. The area-wide projects may appear soon, may not - it's all dependent on large amounts of money that are not obviously available at this point. And then they take a long time to plan and detail with and install and etcetera. I think the really important part of the area-wide is that it's not always going to cover single family houses, if that's part of the issue here. Area-wide, for instance in Bijou, which is the first of the area-wide projects, excludes single family houses from the project. It's truly time - 27 years is a long time to not get the BMPs done, and it's time for this effort and an extra effort to help local governments meet their load reductions by helping them get the BMP part of the load reductions done. Thank you.

Shelly Aldean: Thank you. Last call. Any further public comment? Alright, and can I close public comment? Shay, did you . . .? Alright, I'm going to go ahead and close public comment. Go ahead, Shay.

Shay Navarro: I just want to make one clarification on that last comment that the Bijou area-wide water quality project actually does include single family residential properties in it. I just want to make that clarification. Thanks.

Shelly Aldean: Okay, thank you for that clarification. I know this is a very heated topic. I appreciate everybody's demeanor. You've all made some very intelligent comments. I know that I have been taking notes and I suspect other members of the working group have been taking notes as well, so thank you for being here today. So with that, we will go ahead and bring it back to the working group for recommendations. One of the consistent comments that's been made is that the BMP-ing of residential units is a minor component in the overall attempt to improve Lake clarity. I know that there is an interest in merely tabling the idea of POS. I think POS has some serious drawbacks, that's my personal opinion, but I want to be able, hopefully, to move forward on a unanimous recommendation from this work group because we consist of divergent points of view and the whole objective behind these meetings is to develop some sort of consensus so that we can move forward. So with that, I'd like to start with Jason on the left-hand side and move around the room and if you would provide the entire group with your comments regarding these two issues. Where we are focusing right now is the real estate disclosure process and the POS issue. Jason, would you like to begin?

Jason Kuchnicki: Thank you. I would make the recommendation to dismiss the POS requirement for BMPs altogether. I think it's going to lead to crappy BMPs in areas that don't matter or otherwise it is going to disincentivize redevelopment in areas that do. Speaking to - one thing that we haven't - that's been touched on

but we haven't talked about a whole bunch is this concept of education and outreach, and I'm afraid that that requirement is going to detract from that component which is a really important part of the puzzle. And I would disagree that this isn't partnership - I would hope that it is a partnership, I think that we as agencies and as local governments want to work with the real estate community to educate property owners on BMPs. And particularly, maintaining them and this also touches on verification of the BMPs because a BMP is only good if it's being maintained. And so, the sheer volume of the problem – parcel-based BMP problem – just necessitates that verification of parcel by parcel basis is going to be impossible. So, we are going to have to, by necessity, rely on voluntary inspection and maintenance. And real estate education and education in all forms and outreach is a critical part of that. And so, if we cut them out of the process, so you say, 'Yeah, your BMPs were installed', and there's no engagement on the part of the buyer, then we are missing an opportunity there. So, I think that the appropriate course forward is - I do think that moving forward with the disclosure process and looking at the form and improving that process, is the appropriate course forward. One thing I do want to say on the enforcement part of it is that I have, I don't really have a problem with enforcement, however, what I want to do is make sure that the enforcement is targeted and it's coordinated with the local jurisdictions because resources are limited. If we start implementing or requiring BMPs to be implemented or start enforcing on those parcels in areas that don't matter, what that does is it drains the public sentiment. People are saying, 'I just had to do my BMPs, it cost me \$10,000' and what that does is it drains public sentiment for what we've been talking about. What we need up here is a stormwater utility district and a stormwater fee. And that is the biggest thing, the biggest complaint I've heard on the part of the local jurisdictions is that they are so strapped from this economic decline that there are no resources to do any of their BMP maintenance. And so I really think that there has been a lot of talk, I think we need to start really talking seriously about getting those types of mechanisms in place and I would be really leery of draining the public sentiment for that. So, those are my comments.

Shelly Aldean: Thank you, Jason. Karin?

Karin Staggs: I agree with Jason on every point and one thing that I think regarding the real estate disclosure process, on the new form it says 'with maintenance requirements', and that goes back to our #8, and I think that that is very important because, for example, the counties and the road jurisdictions have to implement their large scale water quality improvement projects or BMPs and they have to do annual maintenance to meet the TMDL requirements. And that is being proposed for these private parcel BMPs as well and so I think that is something that needs to be highlighted. You can't just say, 'with maintenance requirements'. There needs to be something specifically to single family, multi-family and commercial if they are going to bring that up.

Shelley Aldean: Thank you. Jason?

Jason Burke: I also want to echo what Jason said with the same kind of recommendations in that, I understand this policy is from 1987 or 27 years ago and, of course, since then there's been a lot of science done for the TMDL, and my role at the City, of course, is to improve the Lake clarity, that's my primary role, and I understand that this is one of the many, many approaches to doing that. But for me, as the one person at the City who is involved with stormwater kind of fulltime, with my limited time I would, of course, in the packet #5, I think it's page 14, I would, of course, rather spend my time addressing the biggest problem which is, of course, our roads. It is unfortunately not all CalTrans. The City has a lot of roads. We use traction abrasives and we use street sweeping and we have a lot of basins and we are working to address that and that's how I'd really rather spend my time, is addressing these larger loads. And I understand that the partnership with TRPA is very helpful, but I think in terms of prioritization of how we spend our limited resources, for the City it is much more effective for us to go after the biggest contributors. Then also talking

about the maintenance issue, it's kind of like herding cats of 50 to 1,000 parcels – I appreciate a lot of you coming out to tour our Bijou project where hopefully you took away the message that that one project area-wide approach is a much more effective long term maintenance approach where we have concentrated vaults where the City crews can go out and in half an afternoon using our equipment vacuum out these vaults, remove a large amount of the sediment that's not plugging up our infiltration basins and is much easier. We have a long term maintenance funding mechanism through the CFD or the other assessment districts that we can establish with the area-wide treatments. I'm working with kind of, again, the public/private partnership where we can get buy-in from people and again, working with TRPA. For us, that's a much more effective way of ensuring that these are maintained for long term, that they continue to improve the Lake quality and it's much more cost effective for our vacuum truck to go out to these sites for an afternoon and remove all the material instead of trying to track down 50 to 1,000 property owners and harass them into redoing BMPs that they may or may not know where they are or how they work. That's just a lot of time for one person at the City to really try and do as opposed to calling my maintenance folks and having them go out there for the afternoon. For me personally, that is how we would rather meet our Lake clarity kind of requirements.

Shelly Aldean: Thank you, Jason. Sara?

Sara Ellis: I guess I'll just start with the obvious. We'd like to table POS for the rest of infinitum and not have this conversation ever again. But that being said, again, I want to reiterate that if we are going to do something about enhancing this disclosure process and . . . obviously enhancing . . . let me separate it. Enhancing the form and enhancing the process are two different things to me. Absolutely I'm on board with enhancing the form – we all agree that there are things that we need to do about that to make it more effective for all parties involved. The follow-up of that disclosure is something I think we need to still flush out. I think if we are going to be focused and putting resources towards a transfer of property ownership in the Basin is something we want to key in on, then we really need to focus on actually doing that and not just capturing those that happen to be represented by a realtor. That is a concern industry-wide and I think as a policy we need to get that broader net out there. That said, and again, this goes back to my question about area-wide and not wanting to punt that off to another room. We have a lot of really interesting ideas. The interesting thing about the real estate community is that we've been on the ground floor of BMPs since the get-go. For whatever reason, I mean, it's in our lap, and has been from Day 1. And Shannon and my conversation, it's been interesting to kind of sit back because of this working group and talk about where we were in 2000, and how we got to where we are today. And back in 2000, when we had that first priority watershed deadline, we had staff resources, we were educating, we were taking ads out in the paper, everybody was talking about BMPs. And that was great. And I think that's an example of why Incline had such a great compliance rate from the get-go. But as that watershed deadline moved around the Basin, a couple of things happened. One is - word got out on the street that maybe the whole idea of BMPs wasn't exactly flushed out from where you get your evaluation to what the prescription was, do they even work, etcetera. You've heard some of that. And that has gotten better from where we were in 2000. It was kind of a guinea pig project and now we've flushed a lot of that out. Secondly, word got out in the Basin that there wasn't any follow-up. That there wasn't a holistic enforcement approach. And I will say this – TRPA actually has sent out fine letters, I've seen them, but they've been very targeted towards those properties that needed to get dealt with immediately and most of them were large commercial projects in nature. So the word was out on the street that TRPA wasn't even going to knock on your door if you didn't do them. And then third, we had a fire. And that complicated this conversation immensely about how BMPs interacted with defensible space and where are we now, what does that mean, what is the prescription look like? Are the ones I already did, are they now bad? etcetera, etcetera. So we keep talking about fire and quite frankly, BMPs are in the back of all of our minds in the Basin now, and I think part of this conversation, and this is where I am getting at the area-wide, we need to redo that effort – get it on the front page, get people talking about this stuff again, and

really focus on what we believe will get it on the ground which is what happened at Incline which is a very focused prioritized education outreach and enforcement procedure. And I think you brought up a really interesting idea of using our data to get where we want to go. So, use the data that's from the County Recorder's Office about where property transfers are happening and overlay that with the BMP database, I'm assuming this can even technically happen, and then overlay it with the prioritization that we need to do to make sure we are getting the water quality improvements on the ground. I think that's a great idea and something that we should flush out and we'll play a part in that. And then I guess my last thing is, this has also been interesting for us. We were under the impression, and my apologies for this, but area-wide meant something maybe a little differently than maybe the Code refers to it as. We were thinking more along the lines of area-wide in that a community could come together and do it, not necessarily in the context of an area plan, but like if there is a natural flow of water and a group of homes and/or business could come together and treat their water together, and that that would be an option for them instead of having to do this site specific. And I think that that is something we should be able to flush out in this group if that is even something we are interested in doing and how that would overlay with the local governments. So, I would really like #4 to stay as part of this if we are going to continue down #1. I think we can't do just disclosure without talking about area-wide.

Joanne Marchetta: May I make a point of clarification?

Shelly Aldean: Certainly, certainly.

Joanne Marchetta: Sara – We can do exactly the kind of area-wide you are talking about, and it is not limited to area plans. And in fact, the TMDL catchments incentivize looking at catchment scale or areas within catchments that will get you that maximum bang for the buck so if you believe that we can't do that, we not only can, but that is in fact what we are doing, with Bijou for example. And it includes not only commercial properties, but single family residential properties as Shay pointed out earlier.

Sara Ellis: Forgive me – is each individual property owner getting a cert after that's all done?

Joanne Marchetta & Shay Navarro: Yes.

Sara Ellis: May I also add this?

Shelly Aldean: Certainly.

Sara Ellis: The whole idea of how long certs are good for is something else that's been mentioned and yet it's been kind of left, gotten lost in this process and I think that's the next fun stuff.

Shelly Aldean: Thank you. Woody?

Woody Loftis: Okay, I'll try to be brief. As far as POS, I'm just trying to think back – Incline Village did hit 70% and I think that is the highest in the Basin of any area and I don't think it got there because of POS; I think it got there because of fear of enforcement. So, I agree, I would like to see POS off the table, but at the same time I'd really like to have the discussion of #4 and enforcement options. And I'm not a big fan of necessarily targeted enforcement because, and this is just my experience of being in the field, of how many times I'm working with a homeowner that says, 'Who's talkin' to the guy across the street that has the dirt driveway?', and even if you are not in a targeted area, you are still using those roads which are such a contributor, you are also driving off your dirt driveway onto those roads tracking the dirt with you, so if you are out of compliance,

you are out of compliance. And maybe those people don't install, maybe those people contribute to the greater good. The disclosure process, I don't have any qualms with trying to improve that form. My agency is really big on education and outreach so I'm always a proponent of making that message clearer. Hopefully that was succinct enough.

Shelly Aldean: Thank you so much. Alright, Clem. You have a tough act to follow.

Clem Shute: Yeah. The POS is ubiquitous in the United States. There are state laws that require that for a contaminated property before it can be transferred and there are lateral sewer requirements all over the place. So the idea that it's scary or unconstitutional or taking or something like that - I just don't buy it. But I am perfectly willing to put that off as part of this process to look at what we've been talking about today. So I look forward to a robust re-draft to the disclosure statement to look at on August 20th or before if there are drafts that get circulated. The way I see this is, I understand that residential runoff is a low percentage of the total, but this is a program we have had in place, we are trying to get compliance; what I'd like to do is have an efficient program that doesn't take up a lot of resources and just kind of does itself, and over time, we get compliance. I agree we should be targeting commercial and other areas that have higher load requirements – they are not mutually exclusive. To me, they go together – one and the other. I also think that a good point has been made about outreach and I know that costs money. I don't know what options there might be for some kind of outreach, maybe targeted, maybe pick another area to say, 'Hey, we're looking at you and we'd like to have your cooperation. Here's all the benefits, and here's what's involved', and see how that works. I also agree with comments made by other folks. I don't have the numbers in hand, but I think that some other than what gets referred to the Legal Committee because I happen to be on that committee and I know I'll get a chance to look at it, but the other items I do think that the groups that are looking at them are not broad enough. I don't think there's a broad enough range of participation; there isn't a private business interest, there's not an environmental interest – these are policy questions that are not technical questions, so I think that they should stay with this group.

Shelly Aldean: Okay. Shannon?

Shannon Eckmeyer: I think Clem stole everything I was going to say. I hope the goal of this group isn't to look at parcel by parcel vs. area-wide vs. local enforcement vs. TRPA. I think they are all pieces of the puzzle that need to be analyzed and looked at through this group. Again, the Bi-State Working Group put this as a priority and the governing board tasked this group to analyze these problems and I don't think they should be pushed off to other groups. I think if we are able to look at these other things, we are fine with putting the POS process or discussion to the four year benchmark for the RPU analysis and with the robust disclosure process. Thank you.

Shelly Aldean: Thank you, Shannon. Dan?

Dan Siegel: I agree with the last two speakers, with Clem and with Shannon. I think, just briefly with POS, it's been extensively used in the Bay Area, in Los Angeles and the Los Angeles area, and the sky has not fallen. So, I don't think it is quite as horrible a thing as some people have said or feared. That said, I think we've heard some very productive suggestions here today. And I really appreciate the openness to an enhanced disclosure form, for example, by many in the real estate community. I think the suggestion of focusing on the highest priority existing areas, not over-focusing on POS, but also focusing on non-sale properties and going for areas which are the most polluting of those areas. And possibly including – one speaker suggested fines and using the fines to help support TRPA; using the recording of notices of non-compliance not in connection with POS, but just in connection with this is a high priority area. I think that is a very good suggestion. I also want to

point out that focusing POS on residential may not be the most productive, but maybe it should be more focused on commercial and on multi-family, which the charts show us are particularly problematic. And POS and residential delayed for two years until we see how everything else is working, and not to push for that now. I think, overall, that if TRPA is able to develop a robust enforcement approach, which we will be discussing later, is #4 and can come up with a good disclosure approach which would include informing TRPA of/or getting the forms to TRPA, I think that would make me much more comfortable about putting off the POS until two years, to discussing it two years from now. And one final thing I wanted to mention, is there's a lot of talk about the area-wide approach, and I think we have to be careful about the perfect being the enemy of the good. Area-wide is often better than property by property BMPs because they'll be more likely to be maintained, they're more likely to be designed better. It is then, theoretically, they're greater. I think they're a great idea. The problem is – are they going to occur in the near future and if not, does that mean we're going to have continuing pollution while the great hope for area-wide solutions never occurs. I'll bring an antidote which maybe is being solved now I hope, but it is the Biltmore – the old Boulder Bay Project where for years there's been this eroding slope and horrible pollution coming into the Lake, and it's been postponed because there's going to be this perfect project; and it's a wonderful project that's been proposed, but it's still not there and after all these years we've had these eroding slopes. So, I like the idea of the area-wide approach, but it also scares me that it will lead us to do nothing and have continuing pollution while we – the hope for, but, may be expensive, may be not fundable in the foreseeable future, the approach doesn't come into play. Thank you.

Shelly Aldean: Okay. Thank you for all that input. I appreciate it. You know, from a realistic standpoint, we could say today that POS is off the table, but we can't bind future boards. But there seems to be general agreement that we want to look at other solutions before we take such a radical approach because my concern is about alienating those who've taken their time to come here today to make reasonable solutions or recommendations regarding reasonable solutions. And this is a partnership despite my little confrontation with Sue (Abrams); I believe very strongly that this is a partnership. We are not the enemy. The members of this committee, the members of our Governing Board are working very hard to develop a long lasting cooperative relationship with the people with whom we do business, and we want that to continue. So, I think suffice it to say, that going forward if I may be so bold as to summarize – we obviously want an enhanced disclosure process and we will leave it to our subcommittee to bring something back on August 20th that we can review. We want greater education and outreach however we can accomplish that because we want to encourage people in a positive way to comply with the rules. And we can talk further about enforcement options under #4. Let me ask the committee, "Use of Forfeited Securities" – are we comfortable directing the Legal Committee to undertake that discussion or do you want that to remain with the working group?

Dan Siegel: Is the use of forfeited securities to do BMPs?

Shelly Aldean: The use of forfeited securities to do a myriad of things. I don't know that that's part of the discussion for BMPs, it might be for other related expenses. Joanne, do you want to clarify that?

Joanne Marchetta: It has not in the past been directed to BMPs.

Shelly Aldean: Okay, so it would require a policy change, a policy adjustment. Are you comfortable having the Legal Committee discuss that and bring it back to this working group at a future meeting?

Dan Siegel: Bring it back I think would be okay.

Shelly Aldean: Okay. So is there general agreement? Alright, so we will refer that to Legal. Alright, there seems to be general agreement that the enforcement options need to remain with this committee is that correct? Shay?

Shay Navarro: If I could make a suggestion, perhaps we could advance the Topics #5, 6, 8 and 9 to the EIP Parcel Specific Working Group to look at the staff recommendations that have already been drafted as part of the packet that was circulated last week, and to either endorse those recommendations or identify other opportunities, and then we could come back at the August 20th meeting to report back to this working group what the outcomes were from that other technical group. That way we are including both groups. I know we had talked about not necessarily reporting back, but I just wanted to put that out there as an option.

Shelly Aldean: Well, now I appreciate that and do we want to do the same thing with enforcement options – refer that to Legal, have Legal make a recommendation, bring it back to this body for consideration, because we have 25 minutes left . . . go ahead, Dan.

Dan Siegel: I think that approach works if we, I mean, my concern is that things aren't left in an amorphous state such as enforcement will be done by local jurisdictions under their discretion in the future under the TMDL with kind of just very vague policy stuff, but that we have something more concrete that we can chew on, showing that there really will be focused enforcement on high priority areas. But if that, if the Legal Committee is able to develop those criteria and that can come back to us to look at as a committee, I think that would be very helpful.

Shay Navarro: Currently, as part of this packet, we've already identified locations both in Nevada and California that we're currently targeting for enforcement this season. So, we are doing real enforcement on the ground, it is not an amorphous approach for local jurisdictions – it is something that we are coordinating with them currently.

Dan Siegel: As I recall, it's – there is a current program that has a number of months left to operate, but what is the next step and how concrete, you know – to see that in a more concrete way would be very helpful.

Shelly Aldean: I think John wants to weigh in on the assignment of these two items.

John Marshall: I think some of the issues that we talked about would be very appropriate for Legal to take on. I'm worried a little about timing. Legal does not have the capacity; we have some violations that we have to deal with in July and if August 20th is before the August Board meeting then Legal is not going to have the capacity to make recommendations to come back by August, if that's what you're planning.

Shelly Aldean: I think, hopefully, every member of this working group is reasonably flexible. We may have to extend the life of this working group beyond August 20th, and I think everybody is committed to do that. Is that correct? Okay, alright. So we are mindful of the fact that we have limited staff, limited resources and other items to focus on, but you don't disagree that these two topics really should be considered by Legal prior to coming back with a recommendation?

John Marshall: Do you mean the two topics being . . .

Shelly Aldean: I'm talking about forfeited securities and enforcement options.

John Marshall: Yes. I think enforcement options is something that if the committee doesn't have anything else that they want to talk about for the next 20 minutes, then I think we should talk about that because you can refer enforcement to Legal and they will not necessarily know or have multiple different ideas of what that means. So, we need – before you do that, you all should have a discussion, a candid discussion about what you mean by that, what are the realities of that, and then if there are specific questions that perhaps you may want to have the Legal Committee look at more closely, I think that would be a more effective use of Legal's time than to just talk about enforcement generally because there are really a lot of policy issues embedded in there . . .

Shelly Aldean: We'd be reviewing policy changes that might be necessitated by a direction given by this working group with respect to enforcement.

Joanne Marchetta: And just to add to John's point – different people use the word "enforcement" to mean different things. I think we have to have the conversation about what does it mean.

John Marshall: One last thing, with priority, you all can ask the Legal Committee to address a topic, you can't direct them to do so, so it depends on if that committee as a whole agrees to take that on.

Shay Navarro: (inaudible comment)

Shelly Aldean: Two very persuasive members of the working group who serve on that committee and so . . .

John Marshall: But thankfully, it's not a quorum otherwise we wouldn't have agenda problems. But, just keep that in mind as well.

Shelly Aldean: Alright, without further ado, let's go ahead and weigh in to the enforcement issue. Do you want to provide a general outline, Shay, before we do?

Sara Ellis: I'm sorry, are we only just on – because the last thing I saw her say was, 'go ahead and move #6 and 8 to the EIP people'?

Shelly Aldean: We're focusing on - well I think that that includes Item #5 – (inaudible)

Sara Ellis: But we're not talking about that right now, we're just talking about . . .

Shelly Aldean: We're just talking about enforcement.

Shay Navarro: My understanding is we are talking about Items #3 and 4 which were recommended to be referred to the Legal Committee and we wanted to have a conversation on those two topics . . .

Shelly Aldean: Isn't there general agreement that the use of forfeited securities should be referred to the Legal Committee without further discussion? So that one's off the table. So the next one is enforcement.

Shay Navarro: Okay, so . . .

Shannon Eckmeyer: I just, I'm sorry, Shay – a point of clarification, I just want to say for the record that I'm not comfortable moving #5, 6, 8 and 9 to the EIP without some questions that I have so I don't know if we're going to have time after enforcement . . .

Shay Navarro: Even if that gets referred back to this working group?

Shannon Eckmeyer: I do have questions and I think we should go into enforcement right now and then after, if we have time, I'm just not sure when that group is meeting. If we need to give them directions – same thing John just said with enforcement. I think there's a lot of questions and concerns with the remaining items that I need to know what the process is for that group before coming back to this group.

Shelly Aldean: Some of that discussion can be offline, I mean, if you have specific concerns about staff's recommendations. We will do what we can within the remaining time. So, let's move forward then if you don't mind, with enforcement options. And if you can just lay some groundwork for us, Shay, that would be great.

Shay Navarro: Item #4: Consider enforcement options such as recording a notice of non-compliance to a property deed under certain circumstances – this is one of the other tools that we looked at. We did hear public comment on it today. It wouldn't necessarily be for all properties, but it is an additional stick approach to something that TRPA can implement that is another motivator to come into compliance, and the reason we suggested referring it to the Legal Committee was because it does have more broad reaching implications than just effecting BMP installation. This is a tool that can be used for any of TRPA's code compliance issues. As I said on my presentation, topics like unlawful tree removal or dealing with properties that have illegal coverage. What we do have here are a number of track changes to chapters of *TRPA Code* and *Rules of Procedure*. I think that most of these may relate to the first topic, but ultimately that's really all that I have to say about it.

Shelly Aldean: Go ahead, John - I don't think we have enough time to go line by line; that's something that the Legal Committee should weigh in on . . .

John Marshall: I think Shay's point is illustrative of a potential "enforcement" device that could be used, but I think the more productive discussion perhaps for the time remaining is what do we mean by enforcement? When do we take it? And that to me is kind of sketched out. If I can just do it, just a little summary which is, you know, we implement and we enforce. And I'm going to use those two words separately. And sometimes we blend them, sometimes we keep them separate, but I think when Woody says "enforce", he's talking about using the stick to go out and either through a sternly written letter or an actual notice of violation, or some specific application of an enforcement power against an individual property owner to get them to install BMPs because they haven't done so to date and they've ignored various different requirements. That kind of enforcement can be relatively resource intensive depending how committed you are to following it through. But when we talk about implementation, which also is in some ways enforcement in people's minds because what we are doing is we are sending letters encouraging, we are targeting, we are prioritizing. The program . . . she left (referring to Shay Navarro), but for Shay, targeting a program and that's really kind of where we should go about putting in staff's effort to try to coordinate BMP implementation with EIP projects, or with area-wide or with TMDL. And so, the policy decisions about when you try to advance a more aggressive enforcement posture versus trying to facilitate implementation, I think is maybe where the intersection where you all might have the best discussion because really a lot of what staff has said and various other implementers is we want help with those areas which are going to get the biggest reductions rather than just those been the longest in violation, or some other way to characterize where you want to put that effort.

Joanne Marchetta: I do want to add. I want to make this a little more graspable for those who don't work with this process every day, day in and day out. So, the whole issue of how we go about securing BMP

compliance is a process. And the process starts with the information from the TMDL: where is the highest load from the information of what properties have compliance certifications within the area that you are starting to look at. From the moment that we have that information, now we sit down with local jurisdictions – what’s in your TMDL plan, your pollutant load reduction plan, the plump and the slurp on either side, where are you going to focus, where are your public projects, your public roadway projects, what’s coming online, what is there funding for, how do those interrelate with the highest load catchments of the TMDL. And then we develop a strategy to notify - to work with the roadway agencies on the timing and implementation of the roadway water quality projects, to work with notifying the commercial and multi-family properties that may be within that area where you know that you already got some synergistic funding to start your process. We put together a strategy then from notifying the residential properties that may be adjacent. So you start to inherently put together your area-wide approach based upon the best information that we now have from the TMDL, which we did not have 30 years ago. Thirty years ago it was ad hoc, one-off, opportunistic, let’s just start here. We didn’t have the benefit of loading information. Once those notices go out, we’re working with the Resources Conservation Districts to do assessments on private single family residential properties, we’re working with TRPA staff as well as local jurisdiction staff on notifying and bringing together the businesses and multi-family residential property owners, and we’re working with the roadway agency to coordinate the time and implementation of it all. And I can tell you that it took us four years to put together the implementation package for Bijou. From start of notification to on the ground you start construction. And we’ve made an effort now to get people out to see the construction. So, that one year requirement in your disclosure form may be impacted by that construction schedule. When does it make sense for private single family residential property owners or a multi-family property owner or a business to put shovel in the ground? We also encounter calcetrants. And I’ll give you the example of Bijou – we sat down with the City and the City said we’re having trouble with this group of owners and we said, ‘Great. I’m prepared; TRPA is prepared to jointly bring a lawsuit with you.’ That got communicated back to those property owners and miraculously, it solved the problem. ‘We found money.’ That’s what it was about. It was about finding money. At the same time we’re putting together the strategy: some of those properties are hydraulically disconnected, some of those properties have no capacity to infiltrate onsite, so we put together the local funding district in that area to then pay into long term solutions, long term funding of maintenance. This is what it takes to deliver on BMPs, but there is inherently an enforcement component in there. Some people use the term “enforcement” to mean the initial notice letters and that process of sitting down and hammering it out with the groups of property owners – that’s one form of enforcement and we do it vigorously and we do it robustly. And we have money to do it. We got new grant funding to do it which takes us about another three years out so we’re going to have to keep solving the funding problem and we are. Then you get to a point in enforcement that we got to which was ‘this set of properties just won’t play’ in the area-wide solution – what do we do? And we’re prepared. The other form of enforcement is filing a lawsuit, and filing a lawsuit has become the option of last resort. We have always been able to solve it save for a few circumstances where we’ve used our rules and those are the notices that Sara said earlier, “I know some people who’ve been fined.” Yup. We’ve used it on occasion. I will say having committed almost half a million dollars to the Regional Plan Update litigation, we are a little lean right now on attorney dollars, and lawsuits cost. Conservatively, they cost in time and they cost in resources, so it means its zero sum for us, nobody’s offering new funding to bring BMP lawsuits. So, what aren’t you going to do? Are we not going to defend the Regional Plan litigation? Are we not going to defend other litigation that we’re involved in? We can file lawsuits, but they cost. So, that’s enforcement, and it’s a process – start to finish.

Shelly Aldean: Okay, unfortunately, enforcement has kind of a, well, it has a very negative connotation - if we could find a more euphemistic way of defining it. Would it be helpful to develop an enforcement flowchart just based on what the Agency is currently doing which identifies options and timelines? I mean, so that everyone understands that litigation is a last resort, that we would prefer as an Agency to work with our

partners in the Basin, and work with the people who are helping us to achieve our environmental objectives? I think it might. You did a good job of explaining what our process is, Joanne, but maybe sometimes an illustration is far more easily digested.

John Marshall: I think that still doesn't – yes, we can do that to kind of illustrate what are the different options, but I think there is a, and maybe it's just my misperception, but there is a difference of perhaps opinion or orientation on how aggressive we should be on what particular end, and I think, hopefully, that's the discussion that you all can have in terms of how much resources should we be putting into a particular end of the process, and what is the benefit of it. How can we drive – everyone wants to drive reduction, load reduction, we want to drive load reduction probably more than we want to drive simple BMP implementation percentage. And so, how do we get that load reduction effectively while implementing BMP obligations without having any of the negative side effects of just going out and randomly doing patchwork enforcement versus strategic targeting of what it is we want to try to accomplish with the program.

Shelly Aldean: Go ahead, Dan.

Dan Siegel: Just one or two thoughts – one is that I appreciate the idea of focusing on the highest impact areas; that said, the process you explained is just very complex and time consuming, so it is not clear how many of these can be done in the near future just given how intense they are. So, to the extent that you could, with limited resources, have other staff be almost on automatic – that would be useful. And going after lots of different parcels individually is just not realistic given your resources, but having one or two examples and publicizing them, can get a ton of others to comply because now I think the feeling out there is that nothing will happen. So, a very small amount of resources on one or two examples and publicizing that can lead to large results. And finally, at least in California I think you can get attorney's fees back if you prevail in these cases. I can send you the site.

John Marshall: Not for us.

Dan Siegel: Sue in State court.

John Marshall: Hopefully, if the State AG takes those on, then they could.

Shelly Aldean: Shannon and then Woody.

Dan Siegel: . . . the City could.

Shannon Eckmeyer: To kind of go off of what Dan said – I think there is a way to prioritize areas and figure out a way to not scare them, but to show where enforcement mechanisms have worked in other areas and whether that is TRPA working with CalTrans or whom may it be with those area-wides and whether that is within an area plan and local jurisdiction or not. I think that there are ways for TRPA to work and publicize and do outreach that says we are being serious, this is going to happen – if you are next to this road and this is going to happen, do your BMPs or pay into the area-wide. So, I think those are kind of options and maybe if you can bring examples. I know Joanne just talked about Bijou, but more maybe if we could talk offline what that process looks like.

John Marshall: Here is a quick reaction that is, and I think it ties in together some of these things and some of the issues we've been struggling with which is why – we are getting quite honestly at an underlying issue which hasn't been, I think some of us have talked about but - the individual mandate. How do we implement

the individual mandate in a way that makes overall sense with TMDL and with ongoing projects? And so, yes Dan, we can go out and sue a couple of different property owners for hopefully not too much, and what does that do? That encourages or it motivates people to put in their BMPs. In some ways, I'm not sure if this is heresy, is that the kind of overarching broad pressure that we want? Because what we really want to do is, and that may be good for particular areas of residential BMPs that are not going to be part of an area-wide or are not going to part of a . . . really no realistic opportunity to be part of a coordinated program. But how do we segregate those folks out and focus our incentives or mandates to do that at the same time preserving our ability to, you know, if it's a sewage district. To say to our enforcement authorities to say 'Okay, either you choose to contribute to a fund or we come in and force you all to contribute money.' Which is kind of another way of dealing with a broader scope of individual properties. So, I think that's hopefully a healthy debate to have, to yes, we can do that individually, but then we end up with individual implementation which is consistent with our mandate, but is that what we want?

Dan Siegel: What's the old, you know, the perfect is the enemy of the good. I think what you need to do is in the near term, identify those areas likely to have area-wide treatment and don't go after those areas, but go after the other areas where it's not likely to have area-wide treatment in the near future. And that's the way you have your cake and eat it too.

Clem Shute: And it should not be residential because we've seen the chart. I think we all know that residential doesn't contribute very much so I think we are looking at commercial or multi-family in potentially areas where area-wide systems isn't realistic or isn't going to happen.

Shelly Aldean: Woody?

Woody Loftis: Maybe I could offer a potential parallel track. Because, yes, going along and prioritizing takes a long time. Is this property connected, is it not? I don't know. But, we can easily, in moments, determine the 20,000 properties that are out of compliance. Is it possible to send them a \$10.00 fine this year? And say 'Here's your \$10 fine and it's \$20 next year.' Then use that money for, if they want to come back and say, 'Okay, I'm gonna put in my BMPs'; how much does it cost to send something simple. There's no sorting, there's no . . .

Joanne Marchetta: It becomes a question then of following up. It is easy to send it; it's a whole lot harder to follow-up and make it stick. And ask the question, does someone who gets that \$10 fine say 'so what?' And let me just offer this: I think it's important for this committee to think about - we've been forced to think about this as a system; we are now moving into a phase where we're starting to think about assessment districts. The rest of the country is, frankly, far ahead of us on this and right now the Resource Conservation Districts are working with the three local jurisdictions to see if we can't start to develop a strategy where we build support for long term stable funding for BMP - not only compliance but maintenance. And you as policy makers or policy recommenders need to think about the unintended effect as we try to build support for general assessment. What is the effect of the kind of anger that we heard from Sue earlier when the voters have to go to a voting booth and proverbially pull the lever to support the water quality of the Lake by voting for it? So, these are the kinds of things that keep us awake at night and I would like to suggest that it start to keep you awake at night.

Shelly Aldean: I'm trying to remember that in the wake of the Angora fire and the emphasis on creating defensible space, we had communities come together, groups of property owners, to form - what was the terminology for the formation of these groups who were focusing on defensible creation? Fire Safe Councils. I'm wondering if we can't use the same mechanism to drive voluntary compliance. And some of these, I don't

know if the councils are still in existence – if they are lets change their mandate slightly and say look it, now we've accomplished what we wanted to accomplish and it's been done voluntarily, now let's focus on getting these, and these are not necessarily properties that are within homeowners associations, but it's an existing mechanism that we could perhaps capitalize on as a way of driving voluntary compliance with BMP requirements. Just a thought.

John Marshall: Another way to look at this is a lot of what we're talking about is how do you drive the resources necessary to treat the water in a particular area and that's what we're kind of missing. And enforcement is, alright, we're going to force you to implement on that one particular lot. And kind of what you're talking about and I think the more effective use of our enforcement stick, when just calling it pure enforcement, is to encourage/cajole whatever it is, or force people to think more broadly in terms of how are we going to either think on a larger basis, community basis, because we want implementation that is effective and relatively easy to maintain, so how do we drive that? As a policy matter first, and then we use enforcement to create the incentives or disincentives to implement those policy choices of how we are going to go about it. And so, I'm still hearing some dissonance between – on the one hand, Dan, I think you're right about we need to advance water quality gains and some of these things are going to take a while to get to, so is it worth doing a level of enforcement on the individual mandate to get – at least get that first, they may not be maintained for very long, but at least get an initial reduction. Or is it better to wait until we can come up with a better solution? I mean that's kind of the – or where do you chose to use your limited enforcement resources in the true sense of enforcement, to drive the water quality gains that we need?

Dan Siegel: John, I was suggesting a hybrid approach in which you don't go after areas where you are likely to be able to take that perfect approach within the foreseeable future, but instead you only go after areas where you are not likely to get that perfect approach in the foreseeable future so that you don't have continuing Boulder Bay-type of pollution year after year after year. But in an area where, 'hey it looks like we may be able to form an assessment district here', you don't go after that area because you have a reasonable chance of getting a better approach in the foreseeable future. So, I'm talking about a more nuanced approach and you're talking about either/or. We're not talking about . . . I'm not talking about that either/or approach.

Shelly Aldean: Jason?

Jason Burke: I just want to add a little to that kind of hybrid concept in terms of enforcement. My understanding is that there are kind of two levels of BMPs: there's the source control component and then there's the onsite retention of the full design storm. And I think that – I'm not intimately familiar with your Boulder Bay case, but that is a good one. I think that that seems like fundamentally source control. If you have an eroding slope and an unpaved driveway, that is priority. Now, whether or not that site fully retains the design storm onsite is to me a second tier. It seems more effective if your hybrid approach combined with the tiered approach of going after the biggest problems – unstabilized slopes and driveways, and then the second tier which is much more expensive for people to do is retain a design storm onsite.

Shelly Aldean: So do we have, you know obviously, I think that the general consensus is we should focus on the most egregious violations. We've obviously sent out NOVs, right? Notices of violation? Can we capitalize more fully on notices of violation that have already been sent out and penalties assessed?

Joanne Marchetta: I'm not sure how to address the question. We do send out, so right now we are preparing to send about 60 letters out to the Al Tahoe neighborhood. And we do follow up, so you're saying can we be more assiduous about it? We do follow-up.

Shelly Aldean: What I'm saying is rather than radically making – it seems to be based on your summary of what the agency is currently doing, you know, that we are doing what I would think is a defensible job, you know, of encouraging people to comply. There are various components to our approach, obviously, but I'm wondering rather than looking around conscientiously to find another egregious offender, just to use them as a whipping boy, so to speak, to force greater compliance, voluntary compliance. Why can't we use cases that are already in the hopper and do a better job as Dan suggests, of publicizing what the agency has done in extreme cases because of non-compliance.

John Marshall: I think there are some cases that are ripe for that. I'll give you an example. The case that we have with Flipper – Manchester. So, how do we motivate and get a construction yard BMP-ed in the face of straight out refusal? And so we're trying to operate different ways in doing that, but I do think there are other instances and Boulder Bay may or may not be one of those, or there may be other source control instances which we probably – if we know about we should be going after or people can tell us that we should be going after those – if there is a kind of poster child. Source control violations – a coordinated enforcement action of whatever side of the Basin we're on with the Cal AG or with the Nevada AG in terms of something that says we don't want this to happen; if you're in this situation you better be ready to defend yourself again both the TRPA and the States. That could be productive. I'm not certain that there's a whole lot of that out there, but there could be individual cases that might trigger some sort of reaction. Clem, I wanted to respond just a little bit to the issue of commercial because I think a critical issue there is how do you drive commercial, you know, because the numbers are so big in terms of the implementation costs and the economy is relatively where it is, how do you – I don't think the equation is just as simple as 'go enforce against commercial'. Because then when you start doing that, at least what we've experienced in the past, they say, 'Well, we don't have the money to spend \$50,000', or whatever it is for that particular site, to implement BMPs. And it just stops dead at that point unless we want to go after the property. So, I think it's a more nuanced equation about how do we coordinate commercial BMP implementation which has high dollar costs, and the strategies of the Regional Plan where pushing those people into, hopefully, redevelopment where they can roll that cost into their redevelopment costs. But that is just another point of who do we, where do we, target and what message do we want to send as a result of commercial BMPs, with using the big enforcement stick as opposed to trying other ways.

Clem Shute: I think that a large part of this problem is how much time it would take before we know that these areas that would be within an area plan or part of an area-wide system could actually happen. And if you're talking to people seriously about pursuing an assessment district, which in California I think would take a two-thirds vote, that's a lot of heavy duty political lifting. It's really important. I mean that would be the best way to go - to have a solid continuous source of funding for building and maintaining. And if you take a heavy duty enforcement action sometime in the meantime, it's going to have negative repercussions at the ballot box because people say look what those jerks did. So, I'm interested in knowing how realistic it is to have any kind of area-wide program or area-wide BMP system in place within the next five years. Is it realistic to talk about an assessment district passing by the voters?

Shay Navarro: Can I speak to that point? I think outlined in the packet we do talk about the different area-wide projects that are currently moving forward. The Board tour that went on last month looked at two projects under construction in the City of South Lake Tahoe. Bijou was primarily a water quality treatment project, but the Harrison Avenue Project, which we also heard public comment about, is a more multi-faceted project that those property owners were much more supportive of because it has a variety of other benefits like lighting, pedestrian and cycling improvements, landscaping, and transportation improvements in terms of the circulation and parking for that area in addition to water quality improvements. So that multi-faceted project has multiple threshold benefits. It also provides a long term funding source for maintenance because

they do have an assessment in place so those people will be paying into that long term so the City can then ensure maintenance happens in the long term. And that's really the direction I think, from my perspective that we need to go. And we do have other examples with the Tahoe Valley Area Plan that is currently underway where they have identified the green belt concept for that location. They're doing planning for that right now so that then they can get a shovel-ready project to get implementation dollars. So, now that we've created these greater allowances for area-wide with the Regional Plan, and the area plans are actually underway, we are seeing them pop up in a more ubiquitous fashion than just constrained properties.

Shelly Aldean: Clem, did you have a follow-up question?

Clem Shute: I think those are perfect examples. What I'm thinking about is just hypothetical - you have some horrible commercial property that's way out of compliance causing all kinds of damage, and it's sitting in an area where there's an area plan proposed or area-wide system proposed, but nobody knows how long it will take, what the funding source will be, how realistic it is - how long do you wait before you do something about it? That's my question.

John Marshall: I'm not saying enforcement is a negative thing, I mean, I think it's a debatable point as to whether you say, 'Alright, unless you do something we are going to enforce.' That's the example that Joanne has used in the past of let's figure out where those places are which is, to some degree, the plurps and the slurps, and let's figure out a way in which to get all those folks into some sort of program - whether it's a 12-Step or whatever, but where I have a little bit of heartburn is also that local programs are graduated over time. Their targets are five years out, five year milestones? And that somehow we can't, if we have an individual mandate that is currently in effect, we also have to get those properties that are contributing and if we can escalate or incentivize or accelerate, we need to make sure we are able to do that and not take away the credits available to the local agencies that they want to use five years down the road. So, that to me is another thing that we have to figure out and hopefully that is something that can be done within the community . . .

Clem Shute: Well, I agree with that. I guess what I'm concerned about is that there's an area that says we intend to have an area-wide BMP system that will look like this and here's what we try to accomplish, but it has no plan that you can actually count on to make it happen. And in the meantime, things just sit there. That's my concern.

Dan Siegel: Just one quick comment which is - this goes back to the example that you gave before about this commercial property that doesn't have money to take care of the BMPs. The recording of a notice of non-compliance is an attractive option for a property like that because that would create a greater incentive to try to participate in an area-wide if they do go to sell, to have the thing cleaned up. It would be a burden that they have that they want to get rid of and yet you're not forced to basically take over the property and sell it.

Shannon Eckmeyer: I think that there are areas that need targeting, specifically Placer County. Shay, I know you listed a lot of area-wide proposals within this packet. I didn't see anything like that in the Placer County area plan. And correct me if I'm wrong. And they're one-third of the basin and their area is about 23% in compliance for BMPs. So, it's areas like that where I'm not sure what's going to happen in the future and while there are area-wides happening within and outside of area plans within other areas of the Basin, I think there needs to be forms of targeted enforcement in problem areas like that.

Shay Navarro: So, just to respond to that - in the packet, one of the areas that we have identified for targeted enforcement is in Placer County, in the Lake Forest area which is where a public water quality improvement

project, when in place, where that area is considered constrained. So, they put in a public water quality improvement project. That project is now complete, so we are looking at doing enforcement on the remaining single family residential properties that are within the vicinity of that public project. And because it's a constrained project, we'll likely just be enforcing source control requirements, but that's an example of an area-wide targeted coordinated effort that gets all of the public right-of-way and the private properties in compliance but was not part of an area plan because it is considered constrained.

Shelly Aldean: To me, local government has a lot more options than TRPA in a lot of these enforcement situations. Hypothetically, you have the owner of a commercial property and we know that the economy is anything but robust; they are barely able to keep their doors open. They have a problem that needs to be addressed. And then, obviously, there are a lot of fiscal constraints on local government as well, but if local government had the money, and they would also get the credits for the improvements, to improve that property and then enter into an agreement with the owner of the property that they would agree to reimburse the City or the county over time with an additional amount added to their property tax bill, to me that would be a win-win situation because the local jurisdiction gets the credit for the improvement and the business comes into compliance immediately if the local government has the resources to complete the improvements, and will ultimately pay the tax payers back through a slightly increased property tax assessment. Shay? Jason? Go ahead, Jason.

Jason Kuchnicki: I completely agree and like what you're saying there. I think that any enforcement has to be, and I've said this a number of times today, it has to be coordinated with the local jurisdictions. The local jurisdictions – they're going to implement actions. They want to implement actions that get the bang for the buck. So, as Jason (Burke) said earlier, those might not even be parcel BMPs. Because it is really the roads, the roads are the biggest polluters. So, if there is an opportunity like in the Bijou I would imagine, it was identified as an opportunity for a large load reduction, then that's where they can engage TRPA just like they did and say, 'Hey, you know, we need some help over here.' I think that's a fantastic example of how this system will work. The crediting program, I don't know how familiar you guys are with that, but what it incentivizes is for jurisdictions to implement projects in the areas that matter most, focusing on those actions that matter most. So, I think that what that does is it incentivizes the jurisdictions to put actions on the ground that are going to matter, and prioritize their actions. And so, they are not going to want to take credit for stuff that isn't really going to matter. So, they possibly might not even register private parcel BMPs as an action under the crediting program and then they're just going to get lost by the wayside. So, I just want to be really careful if we are talking about prioritizing limited resources. Let's focus on what matters most, and I think Joanne, you pointed out an excellent point about that is what it is going to take – the coordination with the local jurisdictions. Let's let them decide what actions they want to focus on and if that includes enforcement, compliance of BMPs on parcels then we can move forward with that, but I just don't think that a one size fits all blanket approach is really going to work. It's not the most effective or efficient approach.

Karin Staggs: I'm glad Clem came back into the room because I think he needs to hear this. With respect to are there any sort of community watershed programs or area plans going in – the EPA is currently funding area-wide plans on both the Nevada and the California sides right now, and those should happen within the next few years. So that is in process, that is recognized as something that is more efficient and more cost effective overall.

Sara Ellis: Feeding off of that, all four, and I'll include the City, local jurisdictions are politically all unique, and the solutions to get a possible stormwater treatment improvement district, whatever you want to call it on the ground, are all different by where you're at. I just know that the solution in Washoe County versus Douglas County is probably going to be very different in terms of political buy-in and what we can get on the ground,

just by instance of how many general improvement districts we have in Douglas County. I would hope, personally, out of this process, that we get kind of what you were getting at, Shelly - is that the stakeholders in this process can start focusing on those communities and figuring out what's going to work best in those communities. With what we did in Incline, working with TRPA, working with the Conservation District, working with the local jurisdictions and the private property owners to come up with a coordinated plan for this area that works for their neighborhood. And by neighborhood, I mean, in Incline it's probably going to be one of the new neighborhoods, but in Placer, it depends on where you're at, what's going to work. But right now, it feels like to us to participate in something like that, we have to get to the place where we have a little bit of leniency to do that. And right now, I don't know if we have that leniency, and that's one of the questions I have about enforcement. Is the enforcement focused on such a - if it's focused on tomorrow and it's everything tomorrow, then how do we focus on that and still be interested in having the conversation about long term public infrastructure improvements that can be maintained. And that's kinda where I want to get - where we would like to get in this conversation.

Joanne Marchetta: I will just offer this - that one of the reasons that we are at 70% in Incline is because we focused in Incline. So, where we focus on voluntary compliance through these coordinated efforts, we get compliance rates basically leaping forward, but this is the age-old problem of you can't chew the whole elephant at once so it does go to that issue of prioritizing. And the effect of enforcement on that voluntary compliance is kind of the big question: what effect will it have? We, for years, drove people away from our front desk here, we made ourselves more customer service-friendly and people come now and ask how do I do the right thing; so there's a balancing act here when you start talking about front loading enforcement.

John Marshall: I just have one comment for Jason K. While we talk about TMDL, I think everyone recognizes that yes, the roads are the big issue, but we also have many other programs that deal with roads. So it is not like there isn't a whole bunch of money and a whole bunch of effort being done with the EIP projects and the EIP funding, etcetera, on roadways. But that doesn't take anything away from looking at the BMP mandate that we have to figure out how to implement and I don't think it's something that we can just drop by the wayside because the City chooses not to enforce it, or it's not part of their TMDL plump or slurp. So, while we can't ignore the chosen mechanisms that they are utilizing to get their load reductions, we need to support. But that's not inconsistent with also saying, 'Okay, how are we going to also advance either source control or load reductions in addition to making sure that everyone is complying with their obligations.'

Jason Kuchnicki: We have a plan, a comprehensive plan, to get the Lake blue. It is the Lake Tahoe TMDL. As Joanne said, the BMP mandate - that was back in the 1980s. We didn't have the TMDL back then. Now we have a comprehensive plan, a comprehensive program for restoring the Lake. And all I'm saying is let's put our efforts where they matter most, and the local jurisdictions will determine that. They are on the hook for that. They have to do it. In California, it's the permit. In Nevada, it's not a permit but we're going to make sure that they do. And so, as we are talking about limited resources and prioritizing, if they don't want to enforce, if they have other strategies that they want to get to those load reduction targets, by all means go ahead. If they want you to enforce, let them work with you to enforce. But just because you guys have that ordinance, I don't think that we just go out there and start enforcing on properties, just to enforce, if it's not going to matter. It's not going to be effective or efficient.

John Marshall: The issue of who is - I think is one of the critical ones that - I don't think there's been a consensus as to, you know, what is it, where is the direction of - and I'm going to use 'enforcement' in a large context - where is the direction for that kind of enforcement or compliance direction come from? And I think Jason articulates extraordinarily well the position of, I think Bob would do the same thing, from the implementers of the TMDL, and I don't think there is kind of a consensus around the table, and I'm using that

as a larger 'round the Basin as well, is that the way that drives everything. Otherwise, we are going to get conflicting inputs on where should we be putting our enforcement efforts. And until there's a resolution about that, we're going to be getting mixed messages as to what is the correct direction the Agency should be taking, and it's going to lead to disagreement so in some sense, this is almost one of the underlying issues about how are we using those limited dollars and what should we be doing about it. And I think Jason has articulated and Dan, maybe I'm just using you as kind of I don't want to say the other side because everyone is actually on the same side of getting load reductions, but kind of the tug and pull of where should we be doing our target enforcement and why should we be doing that. And I don't feel like there's a consensus that gives us direction as to, 'Okay, staff. What should you be doing?' And that's kind of, hopefully, through this working group you might have a recommendation for the Governing Board because they - 'We think this is how you should implement your available resources to . . .'. You know, as Shay's pointed out, it's not just enforcement, and it's all of our water quality efforts in a much larger context.

Joanne Marchetta: And I'll tell you how we've implemented that so far. As soon as we started working with the TMDL, we've never viewed the enforcement card as solely TRPA's decision. I go to the local jurisdiction or they come to us, and we say jointly, 'Is this a property on which you are willing to go with us jointly and enforce?' And there was a day not too long ago where they would come to us and say, 'TRPA - you enforce.' And I'd say, 'Only if you go with us.' And they'd say, 'Oh no, we don't want to do that. It's your problem. It's for you to take the community hit, because we don't mind if you're not liked, if you're not supported, if you're not popular in the community. We don't want to be there with you.' And I said, 'The only way I'm following this lawsuit is if you are with me.' And then, miraculously, we find a solution. Now, the day will come when we sit down with a local jurisdiction and we say, 'This is the right case. We are ready to go.'

Karin Staggs: To meet the TMDL load reductions, we have three buttons to push. There are the road operations, there are the large-scale water quality improvement projects, and there's private parcel BMPs. And I can tell you that the Nevada jurisdictions are pushing the private parcel BMP button. They are going to use that. However, with the adaptively managed TMDL program, there is the issue of maintenance and verification. So, yes, although Washoe County may have a 70% implementation rate which will get them a huge credit load reduction, if they can't prove that or have some sort of maintenance something, which is upcoming, then they won't get those credits. So, yeah, you can go out and get more through continued enforcement, but you also need to continue thinking about BMP maintenance and adaptive management, but the jurisdictions have every intent to use all three buttons in the tool box. And from Washoe County's point of view, they don't want #8 pushed off onto the other group that should still be in coordination with the realtors being around because we don't want a year from now another form being sent to the realtors to send to their buyers and sellers saying, 'Oh well, now you have to prove that you are maintaining this' for the jurisdiction to receive credits for these load reductions.

Shelly Aldean: Okay. Jason?

Jason Burke: I'll try and be quick. Just a kind of follow-up to that tempting formula of just going after the commercial - just kind of on its own without kind of coordinating with local types of processes is that, in my experience and my limited time here, there have been situations where an enforcement occurs and someone does do their BMPs but you get the lowest quality commercial BMPs where they basically just dig a hole in the corner of the lot and they get certified. There's no ADA, there's no sidewalks, there's no landscaping. I doubt that things are going to work in a year and I'm certainly not going to register it because I can't tell Bob that it works. But they are in compliance, and so again, I think that this is where the carefulness of kind of prioritizing coordination with us is more effective than just checking the box, getting it in compliance.

Shelly Aldean: Thank you. Shannon?

Shannon Eckmeyer: I just have a point of clarification and a question. For the first area, I can only speak to the one area plan MOU that's been adopted officially – the South Shore Area Plan. And they have TRPA still in charge of all enforcement issues for BMPs and they will take compliance and, from conversations I've had with other local jurisdictions, that's kind of the path they still want to take, so when you guys are saying coordination with local jurisdictions for enforcement, do you mean through the TMDL program and if there's outside of area-wide specific projects, what does that coordination entail? And is that something we're supposed to be tackling? Do you understand my question?

Shay Navarro: I can just tell you now that we have existing grant funds to do a variety of different parcel specific enforcement on both commercial properties, single family residential properties; not only for installation but also for maintenance. And to spend those dollars, we contact the local jurisdictions, let them know that this is the funding that we have, and ask them if they have areas in which they want assistance with enforcement. We've definitely heard back from Nevada because of the fact that they are, like Karin said, pushing that private parcel BMP box to get the TMDL. We have some limitations on funding that is in the pipeline that's not currently online yet on the California side in that our CA319 funds that we typically get, specifically say that you cannot directly implement the TMDL with these funds because that's a requirement for the local jurisdictions and this is federal funding and we don't want to basically support or pay for something that is a requirement of the local jurisdictions. But we are still coordinating with local jurisdictions because they might not be specifically claiming certain properties to meet the TMDL, but we still want to enforce on those properties because they are contributing runoff into a roadway where they are claiming credit like – we're doing enhanced sweeping along Pioneer Trail so we're going to look at doing enforcement on properties adjacent to Pioneer Trail – stuff like that. It is definitely a partnership. We are open in communication with all of the local jurisdictions and maybe it is not apparent or clear to the public, but this is our process and we've been doing this since 2003, and we've done more enforcement since 2007 than anything previously, and a lot of that has focused on commercial properties and we're learning from it. Like Jason said, we're learning that maybe doing this commercial enforcement wasn't the best idea in this location, and as they develop their load reduction plans, and their area plans, we know what type of BMP we should be enforcing in different areas. And that will only continue to grow as those plans continue to evolve and get developed.

Shannon Eckmeyer: Thanks for the clarification, and I would encourage as area plans to just add that information to policies so that it is clearer to the public.

Dan Siegel: Just two cents. I think that the TMDL effort is outstanding. It is really positive (inaudible) . . . the State, the consultations between the States. We were pushing for a closer tie-in between the Regional Plan and the TMDL process, and there was some pushback about that, but at least there is some tie-in with the Regional Plan. I think that the one thing people should be aware of, in my understanding, is that in terms of the clarity challenge, meeting the near term goals looks pretty good, but that's because we got the low hanging fruit. And my understanding is that as we go into the future it's going to be more and more of a challenge to really stay on target and it's going to get harder and harder. In part because of that, some of these other efforts, that we've heard about here like you just talked about, Shay, where you do a non-TMDL work but with the (undecipherable) potentially will be with this federal money is really important. It is real important to, I'll use the expression again, to take more of a hybrid approach in which everything is not focused on one of these great efforts but you keep doing that effort but also have other efforts as well. Thank you.

Shelly Aldean: Okay, well, you know, I think inadvertently because there is obviously a lot of connectivity among all of these issues we have touched on a variety of things. Not just enforcement. We've talked about implementation and coordination with the load reduction plans, we've talked about the preference for an area-wide BMP, we didn't specifically talk about in lieu of fees but I think that goes hand in glove. We did not talk about additional incentives and subsidies which we can delay for a future meeting. We did touch on briefly BMP maintenance. So, I think it would be useful at least for me to get my mind around this, I mean, it appears to me that the TRPA is doing a lot of what we discussed but we need, you know, it would be helpful, and I'm coming back to this kind of graphic depiction of our flowchart basically of what the Agency is currently doing independently and in cooperation with the local jurisdictions. And then we can take that and perhaps tweak it, if necessary, but I think that a lot of what we had hoped for is being done; it's just not being advertised. And so maybe we need to do a better job of clarifying the enforcement actions that are currently underway. And if that's agreeable to everyone, then we can review that at a subsequent meeting of this committee on August 20th, and maybe do a little further tweaking if necessary. Okay?

(Inaudible comments, laughter.)

Shelly Aldean: Just to repeat, the only item that we are deferring to Legal is the use of forfeited securities, and everyone seemed comfortable with that – that that's the proper venue. Alright? Good discussion. Thank you to everyone in the audience who joined us this morning, and stayed through the nitty-gritty discussion. And with that, we have one more public comment period. Any member of the public wishing to comment on anything having to do with the work group?

John Falk: I am so sorry to do this. John Falk representing the Tahoe Sierra Board of Realtors, I'm their professional advocate. I wanted to respectfully disagree with Dan Siegel which is rare with me because you know, we are so simpatico. But he brought up the idea that using the attachment to title would perhaps be one of those motivational tools, and I think it's actually, if you look at it, it would be the reverse in that it wouldn't act as an incentive, it could act as a disincentive, like, go ahead – do it. And then what happens on the ground, nothing. And so when you look at the abilities that the Agency has and is currently exploiting the resources that it has, I would renew my request that you consider and reject the expansion of enforcement powers within the Agency as simply unnecessary, duplicative and inappropriate, and retain those powers with the local jurisdictions as they currently exist.

Shelly Aldean: Roger? (Inaudible comment from audience.)

Tracy Saunders: (Speaker did not identify herself but maybe be Tracy Saunders who spoke earlier.)
On both BMP forms that you currently have, on neither form do you put the number for a homeowner to call to get an evaluation and I would definitely suggest when you are revising this form to put that on there because the forms that we do have as a realtor and have our client's sign are always given to them as well so they keep those records and it is the one source where they can go back to say, 'Hey, who do I call to do this.' So that's one thing if you don't have the ability to fine, and I am still really unclear on that even after going through your whole meeting – can you fine people? I mean, I am really confused.

(A faint 'yes' is heard from an unidentified speaker.)

Tracy Saunders: So, you do have that ability. Okay, then I guess I would just keep it, but John Eppilito asked me to bring that up. He said that it caused him a problem on one of his deals in Placer County with title, and the loan couldn't go through because this was on that form. So that was interesting. And then my understanding was area-wide BMPs – again, to what Yvette Shipman said earlier – when you have the public

believing in what you are telling us, we are all going to buy into it and I think part of the problem with individual BMPs has been that there is no education back to the public, like we have 70% compliance in Incline Village and that has caused the TMDL to drop by this percentage. That information has to go back to the public, if it really is making a difference, and frankly, in the paperwork you have provided me today, I really say that you'd have a hard case making that to the public because that everything keeps coming back again to that the individual single family residences are not making a big enough impact on the TMDL doesn't mean that they can't be done, but we are not getting that information back after these homeowners have spent a significant amount of money. I've had homeowners actually have to sell because they can't afford to do their BMPs which is really a shame. Between the taxes going up and the BMPs, I've had a lot of elderly homeowners have to sell in the last few years and it's not – they can't live where they want to live anymore. And that's fair to them, they've residents here – some of them for over 60 years. So, again, back to education, you're missing a piece completely here and that is that unless you can show me, the public, that it is having an impact and that the money that I'm spending I'm spending wisely because it is helping keep the clarity of the lake clear then I am not going to buy in with you and I think that is a hard sell for anybody.

Shelly Aldean: Thank you. Any other public comment? Okay, seeing none we will close public comment. Is there a motion to adjourn? (So moved.)

All those in favor? (Unanimous.)

Any opposed? (None.)

Thank you so much and we will see you back I guess at the same time 9:00 a.m. on August 20th, is that correct, Shay? Yes.

Meeting adjourned.