

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

Wednesday, August 20th, 2014

9:00 a.m. – 12:00 p.m.

TRPA – 128 Market Street, Stateline, NV

Call to Order: 9:00 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

Clem Shute: Today's agenda consists of the nine items on the August 13th memo and we will go through those nine, hopefully complete them all, and make recommendations. We will take them up separately as some will go quicker than others, and take public comment on each area so everybody has a full chance to express any views they have.

Shay Navarro: Okay, thanks Clem. Good morning, everyone. My name is Shay Navarro, I'm staff with TRPA, and today is the third Working Group meeting for the BMP Compliance Working Group and with the packet that we sent out with your meeting agenda, we do have a meeting goal as Clem indicated as well. We are requesting action from the Working Group to endorse the BMP Action Plan, which we will go through in detail and go through each of the topics one by one. And we are asking that either you endorse it or identify the necessary revisions in order to endorse it. We are hoping to get through everything today but if not we will have to schedule another meeting.

So, moving forward, I just want to give a brief presentation to get us all on the same page.

This is going to be an overview presentation on the process to date as well as the entire Stormwater Management System which we heard from you would be beneficial just so everyone is on the same page and understands the different components. Last time, we did hear that there's a lot of stuff that might be going on but people aren't necessarily aware of it so we just want to make sure that everyone is on the same page.

As you remember, this Working Group originated from direction by TRPA's Governing Board (GB). It was one of the priority projects identified at the annual priority setting workshop for the GB. It was to create a subcommittee of the Board along with interested parties to explore options related to BMP compliance, and the intent of this is really to provide some recommendations that guide TRPA's efforts and limited resources to the most effective stormwater management strategies. And this continues into some topics that were discussed during the Regional Plan Update, primarily BMPs at point-of-sale—something that was a non-unanimous issue and was continued, but the GB direction expanded the topic to be more encompassing to look at the entire system.

We already did Working Group introductions. I'll go over the schedule and process today, provide some context for the entire stormwater management system, and then we will go through the BMP Action Plan in detail.

Here are all of the Working Group representatives. With this slide I would like to reiterate that our Working Group consists of representatives from both states – Nevada and California. State representatives, local government representatives, business community representatives, environmental community representatives, and then we have a non-affiliated technical expert.

This process began in January and the yellow arrow shows that we are at the third meeting today where we are requesting action. Once we get final recommendations from the Working Group, the recommendations will be advanced to TRPA's APC, RPIC and GB for a review and approval which we are anticipating to occur this fall.

Just to recap the outcomes from the previous meetings:

At the first meeting the Working Group endorsed an overall goal to focus their efforts, and a list of objectives and feasibility criteria that your recommendations should adhere to, and you also identified nine discussion topics and requested additional data and analysis to help inform your recommendations. TRPA staff prepared an information sheet for each discussion topic addressing these requests and also outlined staff recommendations which, as presented at the second Working Group meeting on July 8th, you discussed in-depth the BMP requirements triggered by real estate transactions. There was support for the development of a robust disclosure process in lieu of requiring BMPs at point-of-sale with the understanding that the topic could be revisited should the TMDL not show sufficient gains being made towards water quality improvements. And the Working Group directed staff to draft an enhanced disclosure form which was included in your meeting packet and we will go through that when we talk about that topic with the BMP Action Plan.

You also directed staff to develop a flowchart of the BMP compliance process which was distributed to you today and should be in front of you. One other thing that we distributed today was a table of Lake Tahoe Stormwater Management System Framework, and I have a copy of it up here on the screen. This is pretty small—but I'm going to be going through it in detail so if you can grab your handout and follow along, that would be great. I am presenting this in the context of both TRPA's BMP requirements which are from Section 60.4 of TRPA's Code in that all parcels are required to infiltrate the volume of the 20-year/1-hour storm from all impervious surfaces, control sediment sources onsite and meet fire defensible space requirements, but also in the context of the TMDL. And with the adoption of the Lake Tahoe TMDLs in 2011, there have been some shifts in terms of how water quality is dealt with in the Lake Tahoe Region. The TMDL deals with maximum daily loads for fine sediment particles, phosphorous, and nitrogen that may enter Lake Tahoe in order to reach the desired clarity and there has been close to \$10 million of research going into looking at the pollutant sources as well as what are the best opportunities to reduce those pollutant loads.

Local governments and state transportation agencies are required to take action in order to meet the load reduction requirements that are administered by both states, California and Nevada, through the EPA. So, there are memoranda of agreement in Nevada, and then NPDS permits on the California side, for these local jurisdictions and state transportation agencies.

The TMDL science found that most of the existing urban areas were the largest contributors of pollutants and many of the water quality improvements that we will discuss are being done to help the local jurisdictions and state transportation agencies meet their load reduction requirements.

This framework looks at different types of land uses—their relative portion of the Lake Tahoe watershed, the pollutant potential coming off of those different land uses, and where those land uses stand in terms of BMP compliance (what is actually being done to treat runoff from those different land uses right now). And then, what are the mechanisms by which we bring these types of land uses into compliance or go about treating the runoff from them.

Let's start with roadways. This includes highways, local roads, and U.S. Forest Service roads. The pollutant potential is pretty high—this is because of road abrasives that are applied in the winter time, traction abrasives that get caught up underneath peoples' tires and snow and transported around and deposited on driveways, but it is also the road itself which degrades over time. There's asphalt made up of oil and particles, and as that road degrades, there is fine sediment particles that come off of that and some of them, because they are asphalt, oils adhere to them and they remain suspended because they float, so the pollutant potential is relatively high compared to the other land uses. And improvements are tracked both through the EIP Program and the TMDL Crediting Program. Typically, water quality improvements are implemented through public water quality improvement projects and some area-wide treatment. Many of the

roads in Tahoe were built without curbs and gutters or other improvements to capture the fine sediments and, together, the state departments of transportation and local jurisdictions have been retrofitting hundreds of miles of roads. And most of the roadways have either been completed or are scheduled to be completed in the near future.

These are some photos of roadway improvements. We have Highway 50 on the left which had a variety of conveyance and subsurface treatment as well as some vegetated basins to capture and infiltrate. We also have a picture of the Bijou area-wide project which looks at taking runoff from both private properties and public rights-of-way, but also, roadways are treated in other ways like enhanced street sweeping which we see on the bottom photo. And all of these types of activities are used by state transportation agencies and local jurisdictions to help them meet their TMDL load reduction requirements.

Moving on to commercial and public service land uses: these are not as high a pollutant potential but they are relatively high even though they can constitute a smaller portion of the watershed; they are land uses with high use and larger areas of asphalt and why they have a higher pollutant potential. One example is: if you think of a gas station or 7/11—there are cars that are coming in and parking, there's a lot of turnover, there's a lot of use in these small areas and that use not only introduces pollutants to that area but also the degradation of the asphalt over time contributes to the pollutant loading.

There's a range of ways to implement improvements including area-wide and parcel specific BMPs that are installed through permitted projects as well as BMP retrofits. The Regional Plan created incentives to try to accelerate environmental redevelopment where BMPs are installed as part of new construction or redevelopment, and because of the higher pollutant potential, TRPA has focused most of its compliance efforts to accelerate BMP implementation on commercial land uses over the last five years. And this has resulted in a relatively high compliance rate. We have about 60% compliance on commercial and public service properties region-wide.

These are some images of commercial type BMPs. Because of the higher pollution potential, installs typically are more entailed and expensive with higher levels of treatment including engineered basin and subsurface treatment. Usually, projects need a permit because they require engineering to complete their BMPs. Recently, much of our efforts of accelerated implementation were focused on the Highway 50 Corridor in the City of South Lake Tahoe and we did have some lessons learned with that effort and BMP retrofits. At times, there would be BMPs installed with minimum effort. That's not always the case, but there's also concern about ongoing maintenance. It is very time intensive to follow-up with individual properties compared to area-wide treatment and, if you remember last time, I believe Jason Burke from the City made a comment that it would be easier for the local jurisdiction to send out one employee to do the maintenance on a larger neighborhood scale area-wide treatment than to have that same staff time spent following up with individual properties to make them do their maintenance. And this is something that's being discussed right now, looking at

maintenance verification protocols and just how much time it is going to take if local jurisdictions want to use private parcel BMPs for their TMDL crediting.

We also learned that some of the properties aren't appropriate for parcel specific BMPs either because of constraints or other concerns like proximity to subsurface contamination. Moving forward, TRPA staff is working with the local jurisdictions to identify what strategies make the most sense for them in meeting their TMDL. For the City, they're actually identifying other opportunities for area-wide treatment and are incorporating those into their area plans that are under development. For other jurisdictions, like Washoe County, they have a higher compliance rate with private properties and so they really want to rely on private parcel BMPs to help meet their TMDL load reduction. But again, there is this question about BMP maintenance and they are working with NDEP to determine what protocols are required to ensure that maintenance is being performed so that they can get credit.

Multi-family residential has less pollutant potential than commercial, but it is still substantial because of the larger amounts of parking and higher density of development on a parcel. It is a slightly smaller percentage of the watershed, but we have a higher compliance rate because many parcels are in a homeowners' association (HOA). And this acts like a mini area-wide treatment where residents pay dues and the HOA completes maintenance over time. And any time there's new construction or redevelopment, BMPs are also installed. Those are the different mechanisms by which multi-family can come into compliance.

This is an example image of typical multi-family residential BMPs. This is one of the interactive materials that we have on our website—tahoebmp.org. We have a lot of educational materials available for people to learn about what types of treatments are required.

With single-family residential, it constitutes a larger portion of the watershed, but with significantly less pollutant potential. We have almost 40% compliance rates with single-family residential parcels in the Basin, but since the pollutant potential is relatively low compared to the other land uses, the distribution of resources is proportional to the environmental benefit.

BMPs are always required through permitted projects and this season, TRPA targeted priority single-family residential properties in coordination with the City of South Lake Tahoe and Washoe County, and we sent out close to 300 enforcement letters, and are now working with the local RCDs who are providing the technical support to help those properties come into compliance. And so we have Jen Cressy in the audience with the Tahoe Resource Conservation District (TRCD) and then Karin Staggs is representing NTCD right now, who is working with the Nevada properties.

This graph was presented to you before at the last two previous meetings. It is a recap of the relative pollution potential from the different land uses. And what this graph shows is that the total suspended sediment potential from a single-family residential property 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 note when thinking about what are the most effective uses of TRPA's resources. Many people think that we haven't completed anything because we don't have 100% compliance, but most of the non-compliant properties are single-family residences right here. Therefore, we've been implementing priority setting to use our limited resources in a way that maximizes the environmental gain with those resources.

Moving on to the BMP Action Plan which you all should have a copy and was distributed as part of the meeting materials today. We are requesting the Working Group take action today to either endorse the plan or provide the necessary revisions in order to endorse the plan. We will go through each topic one by one and pause to have Working Group and public discussion.

Here are the main topics advanced by the Working Group for further discussion and these are great. We are already doing a lot to address many of them. They are summarized in the Action Plan. We do have some suggestions for improvement and we will go through those one by one.

Most of the recommended actions fall within one of three categories: to either focus efforts on the most effective pollutant load reduction strategies, coordinate targeted enforcement to accelerate BMP implementation with local jurisdiction load reduction plans, and improve information systems.

We will start with the topics related to real estate transaction BMP requirements. This addresses discussion Topic #1 and #2—the Real Estate Disclosure Process, and requiring BMPs at the point-of-sale. At the last meeting, the Working Group supported the development of a robust disclosure process in lieu of requiring BMPs at the point-of-sale, and directed staff to update the disclosure form which was distributed to you with the meeting materials last week and you all have a copy in front of you. We did have a draft last time that you all reviewed and we took the comments that we received at the last Working Group meeting and made those revisions so this is the updated form here to meet that request. Our recommended actions in the BMP Action Plan are to enhance the BMP Real Estate Disclosure Form, develop a robust process and continue BMP education and outreach at the point-of-sale, and then support the TMDL with BMP compliance efforts.

We want to focus BMP compliance efforts in coordination with strategies that are prioritized by the local jurisdiction load reduction plans and area plans. This focuses our resources in areas that will achieve the greatest pollutant load reduction and supports the TMDL which is in line with the Working Group objectives. And it is not a one-size-fits-all situation. For some local jurisdictions strategies include enforcing private property BMPs, while others include private/public partnerships for area-wide treatment. Do we want to pause and have committee discussion on these two topics before we move on?

Dan Siegel: I have a few questions. Were you saying that BMP work on state highways or whatever we want to call it, either has been completed or is scheduled to be completed in the near future? I thought I heard that.

Shay Navarro: Yes, I did respond on that, and if I go back to that slide—we do have the miles treated right now in the BMP Compliance column, and that was information that we received from the Environmental Improvement Program that many of the roads have undergone improvement already or are scheduled to undergo improvement in the next . . .
(interrupted by Dan Siegel)

Dan Siegel: Maybe I should tell you why I'm asking. What I'm trying to figure out it is kind of what's been done and taken care of, and then what opportunities are left for more improvement, and it sounds like, if I heard you right, we are in good shape with the highways. They are a big problem, but there's also an awful lot that's been done or is about to be done so that there doesn't need to be a focus on highways—if I'm hearing you right. So, I'm trying to figure out where are the best opportunities for more reductions.

Shay Navarro: I would say that local jurisdictions and state transportation departments are focusing on roadways because of the high pollutant potential that comes off of them. However, it is not just, "Let's just do something and now it's done." There is a lot of ongoing maintenance that is required of these improvements, but there are also different types of BMPs, such as the street sweeping which is considered a mobile BMP, and is something that you can't just do once; it is an ongoing type of treatment.

Dan Siegel: Got it. Just a minor one—you said, or I thought you said, that there's 60% compliance for commercial and industrial properties, and the figures I saw were flipped and said something like 38% compliance if I got it right. 730 certs and over 1,000 lacking certs or did I misread that?

Shay Navarro: These were the compliance rates. We have 730 that have certificates and 1,886 remaining. One thing that we did include in the Action Plan just talks about the need for regular reporting of BMP data and we will get into that when we get to that recommendation.

Dan Siegel: Things may be better than this you're saying?

Shay Navarro: These are the most up to date numbers that we have right now.

Dan Siegel: Because this looks like there might be, this may be a good opportunity improvement.

Shay Navarro: Yes, and that's one of the things that I said is, because of the high pollutant potential given the relatively smaller land use, this is definitely an area where we've wanted to focus and have focused, and most of our accelerated BMP implementation efforts over the last five years have really targeted commercial properties. A lot of them are in the City of South Lake Tahoe adjacent to Highway 50 because of the public water quality

improvement projects happening there. We wanted to target commercial properties adjacent so that they wouldn't be contributing load to those public projects.

Dan Siegel: Got it. Thank you.

Shelly Aldean: Shay, you know, it might be helpful, and I know you are kind of constrained by space, but to indicate the remaining miles to be treated.

Shay Navarro: Okay.

Shelly Aldean: So that we have a basis for comparison. Also, under single-family residential it is roughly a 40% compliance rate. I know that one of our primary focuses has been the lakefront parcels and the compliance rate is higher isn't it, on lakefront parcels?

Shay Navarro: I believe so because we did target lakefront properties through accelerated implementation because of their proximity to the Lake. There's nothing between them and the Lake and then there was a lot that came into compliance when we did have the buoy permitting, before we halted that with the shorezone litigation. One of the requirements to get a buoy permit was that you had to have BMPs installed so there were quite a few properties that came into compliance through that process.

Shelly Aldean: So it might be useful to break out the number of lakefront properties that are in compliance because people will normally associate lakefront properties with a higher potential for contaminating the Lake and I think even though the overall percentage is relatively small, if the percentage of lakefront properties have come into compliance is high, I think that is an important piece of information to include.

Shay Navarro: Okay.

Jason Kuchnicki: Just a couple of things I think that are worth pointing out when we are talking about the miles that are treated for the highways and the roadways. With the TMDL there's been kind of this paradigm shift—before we were strictly dealing with total sediment and so with the TMDL came this concept of, "Oh, fine sediment." And so, I think, although we've done a lot of good work on the roadways, it hasn't been until relatively recently that this concern has come up over the fine sediments. I think we still have a long way to go because that is a much more difficult problem and we are narrowing down the specific sources. I think a lot of these highways and roadways that these miles treated here reflect stabilization and erosion control measures which are going to help, but it's not necessarily the biggest problem on the road which is the traction abrasives, the roadway itself, grinding down pulverization into fine sediment particles. And a lot of these roadways, a lot of the implementation, have installed stormwater treatment however, the more the higher concentration that you have going into these stormwater treatment devices, the higher that comes out—the higher the influent, the higher the effluent. I think what transportation and local governments are going to have to do, or want to focus on, is reducing the concentrations of the runoff that are going into these stormwater facilities and that's going to be through roadway operations and

maintenance practices. Although we've done a lot of good work here, I think that this chart may hide the fact that we do have a lot of work to go on the roadways.

The second point is that there's been some recent research and findings that have come out about the local roadways that suggests that they can have as great a pollutant loading potential as the state highways. So, although for the TMDL it says 150 milligrams per liter there, there is the potential that these local roadways are much higher in their fine sediment runoff.

And then I guess we are just going over clarification now, otherwise I'd offer some comments on. . .

Clem Shute: No, actually what we are doing here is combining the staff presentation and Items #1 and #2, and so our questions should be addressed to that and public comment same thing. So, Items #1 and #2 in the initial presentation. So, if you have some particular comments about the draft disclosure form or whatever else, that would be in order.

Jason Kuchnicki: Okay, great. I will just throw in my two cents about the BMP Action Plan and this item specifically. I think it's great; my compliments to staff—it was very well prepared, excellent job. And the only thing that I would offer to the BMP plan would be in Section 1.1. It says, "the Working Group directed staff to use existing grant funds." That word 'directed', I don't know if we can actually direct people to do stuff with grant funding that they are receiving from different agencies. I might just change that word to 'support'. And then I do have some comments on the disclosure form, but I will just go ahead and let others go through their comments.

Clem Shute: You have the floor if you want to go ahead.

Jason Kuchnicki: I think that this is really good; it is definitely an improvement from the last version. One overarching kind of thing I guess is I might like to see a kind of a carrot in addition to or instead of the stick approach where it says, "property owners out of compliance with BMP requirements may be subject to enforcement." I thank you for making that more flexible with the 'may be' subject to enforcement. I think that's great. I think it is easier to catch flies with honey, so explain to them that they can make a difference. Implementing your BMPs helps protect the lake, helps protect your property values, and I think it's okay to come in with that. You stated several places in the disclosure form but I think it might help people to embrace it if they say, "I'm doing a good thing and it's going to help me protect my property values."

Specifically, to where it says "TRPA Best Management Practices Requirement": two concepts there—one is not just obtaining the BMP compliance certificate but also remaining in compliance with it. I think we need to stress maintenance as much as possible and one way to do that is to hammer maintenance home. It's not just implementing your BMPs, it is also maintaining them. It is an ongoing process.

Shay Navarro: We do have the second bullet under the note that says, "Certificates are transferrable as long as BMPs are maintained and remain effective."

Jason Kuchnicki: Yes, thank you. I love that. I think that's great.

Shay Navarro: You just want some more . . .

Jason Kuchnicki: I don't know, I just think for consideration, I think it's always good; in a presentation the rule is 'you're gonna tell them what you're gonna tell them, you tell them, and then you tell them what you told them.' So, just hammering it home, I think, would be beneficial from my perspective.

Shay Navarro: Maybe we can add under the "TRPA Best Management Practices Requirements"—"all property owners within the Lake Tahoe Region are required to implement and maintain stormwater best management practices." We can add a 'maintain' there.

Jason Kuchnicki: I don't know if we need to wordsmith it right now, but the other concept is this 'in-lieu' fee. It is not necessarily that they have to implement best management practices, although I understand that if they're going to do the in-lieu they still have to do the source control. But I think it might be beneficial to point that out as well so that way property owners have that option; that they know that there are other options out there other than just implementing their parcel BMPs.

Shay Navarro: Okay. So, add some reference as to area-wide?

Jason Kuchnicki: Yeah, I did take a crack at rewording it. I can send you what I have and you can maybe go off of that if you like.

Shay Navarro: Okay.

Jason Kuchnicki: If people want to wordsmith it, I mean, I'm open to that at this point. I don't know that we need to take the time at this meeting to do that.

Clem Shute: Well, are there other questions and comments? Because I have some.

Dan Siegel: I have comments on the form. I took to heart your presentation last session and this session about limited resources and how to best focus the resources and I think it makes sense not to spend an inordinate amount of staff time on single-family residences. What makes sense is to get the most you can with the least effort. And I think that the way to do that would be a little bit different from what I heard suggested which is to be very blunt about the requirement of BMPs on properties rather than softening it—make it real clear that this can lead to very substantial fines. And I think your old form at one point, had that—it got removed and I suggest putting it back and the language I would suggest in red is a replacement of: "the property owner's out of compliance with BMP requirements may be subject to enforcement and fines." And then site the rules of procedure. I would just say, "TRPA regulations require BMPs on Tahoe properties. The penalty for non-compliance can be \$5,000." And I think by having something like that, you increase the chances that people will pay attention as they are going through the thousands of forms. I appreciate the notion of the honey, but I don't think that when

people are buying properties they are going to be reading through these things and digesting all the details in here. I think what you need is something that is really going to catch someone's attention and increase the chances with little effort on your part. Increases the chances of compliance. I think the other thing I think that you are doing really right is having it so that these forms can be emailed in making it as easy as possible to get these forms to you makes a lot of sense.

Shay Navarro: And that was one thing with the disclosure form that we sent out—we did set it up to be an interactive .pdf to make it easier for people to be able to fill it out online and then there's an automatic email button so it can be directly sent to TRPA. One of the things that we are working on with our legal staff right now is what do we need to do for the signatures because there are some signatures required here. There are some different options to do electronic signatures and we are looking into the legal aspect of that and it doesn't just effect this form; it also effects other electronic permitting applications that we are doing right now for tree removal and BMPs and some of the other permits so that people can potentially fill them out electronically and send them in. Right now, you would have to print the form, sign it, and then scan it and email it back in, and that doesn't necessarily make it paperless or easier, so that is one thing that we are working with our legal staff on.

Dan, can you read your . . .

Dan Siegel: I assume there is a way to do that because I know we can send in tax forms electronically and I think it really is a great idea to have it be just press a button rather than have to have people scan it and then fax . . .

Shay Navarro: Yes, there are some different proprietary options for electronic signatures and we are just looking into what makes the most sense for us. Dan, can you repeat your statement, "TRPA regulations require BMPs on private properties . . ."

Dan Siegel: "on Tahoe properties." "The penalty for non-compliance can be \$5,000."

Shay Navarro: Thank you.

Clem Shute: Shelly?

Shelly Aldean: Consistent with what Jason was recommending, the second to the last bullet under, "For properties with no certificate", could we say, 'for more information and assistance on installing and maintaining BMPs, visit (website).' Because people are often confused about the installation process, about the ongoing maintenance requirements. Also, up a little further where we are talking about purchasers of property shared use areas, in that second line, can we add, 'common areas and easements may be collectively responsible for BMPs in these areas'? I mean, I think that's what's happening is the association is doing it on behalf of its membership.

Shay Navarro: I got that.

Shelly Aldean: And then I think just to make it absolutely clear, can we put a little notation at the bottom of the form that says, 'this document can be signed in counterpart'? Because it is unlikely that you'll have the buyer and the seller in the same room at the same time; it is unlikely that they are going to be executing this document simultaneously so they need to know that it's okay not to have the buyer and the seller's signature on the same form.

Shay: Okay.

Shelly Aldean: Thank you.

Clem Shute: Shannon?

Shannon Eckmeyer: I have some comments on the staff report and then I think I agree with Dan's language that the actual fine of \$5,000 should be on the form. I just want to put on the record the way this staff report is worded for 2.1 and 2.2. I know we agreed on "in lieu of actively requiring BMPs at the point-of-sale", but they really are required and just in general, I'm not trying to open this can of worms and say that we need to have this discussion again, but I think that the wording needs to be reworded here but it's really, 'in lieu of actively enforcing BMPs on the point-of-sale', so I just want that to be the context of this conversation.

Shay Navarro: Okay, we can make that change.

Shannon Eckmeyer: Okay. That would be great, I would appreciate that. Two more comments on 2.2. I know that something Dan and I had agreed to is kind of putting this off into the next 4-year review update of the RPU and seeing how compliance is going, to see if this needs to be addressed again, so I think that should be included in the language.

Shay Navarro: Okay.

Shannon Eckmeyer: And finally, how TRPA is going to track the disclosure process. I know making it through email is going to make it a lot easier but if there is some kind of a system where you guys have to track the amount of properties that have been sold in the Basin on a yearly basis or however, whatever's easiest for you just to see if this (the form), if people are actually doing it and following it and turning in the form.

Shay Navarro: So just to recap what you are requesting is: you want a way to track how many real estate transactions are in the Region or how many forms are submitted?

Shannon Eckmeyer: I think real estate transactions; I know it's impossible to track everything, but if we are going to analyze at least the point-of-sales and how well this is working, the actual transactions, yeah. I don't know what that would look like for you guys . . .

Shay Navarro: Usually we have to get that data from the real estate community or title companies. We do have a subscription to Real Quest that we can do queries through, but we are limited

in terms of our subscription and that is where we get the data. I don't know if, Sara, if you have any other comments about how that data is available.

Sara Ellis: I have no idea.

Joanne Marchetta: And we would use that how?

Shannon Eckmeyer: To see if this is actually working. You know, if people are actually submitting their disclosure forms because I know when I spoke to Sara it is difficult now. I think the email is great and that is definitely going to help alleviate the problem but really, are people actually doing this and turning it in? I know you'll have the numbers of who is doing it but what is that relative to?

Dan Siegel: I have kind of a modified suggestion and it is sort of a question, and this goes back to how much effort this would take. Would it be possible, with relatively little effort, to look at one of these sources of real estate sales and see whether or not the purchasers have submitted forms and then send out a form letter to purchasers who have not submitted the form? I don't think you should devote half your staff to something like that, but if it could be done fairly easily and make it almost mechanically, I think that would be a really good idea.

Shay Navarro: Right now, how we prioritize the properties to receive letters of failure to implement BMPs is based on coordination with the local jurisdictions in catchments that are registered so that their effort...that we're sending letters in areas where they are actively looking to get TMDL credit. And either installation of BMPs indirectly benefits the TMDL because some local jurisdictions are just relying on street sweeping, so if we are enforcing on properties adjacent to that road then there is less loading going in for that street sweeping. Or some jurisdictions are actually looking to get credit for private parcel BMPs so we want to make sure that we are accelerating BMP implementation in those catchments that are registered.

Dan Siegel: I guess I was asking for a much lighter approach here which would be simply sending out a letter saying, 'we haven't received this form – please submit it', as opposed to sending enforcement officers out and doing inspections and doing that high level, that you are appropriately doing in high priority areas. Is there a way to do a very cheap version just sending out a letter? And if it would take an awful lot of effort on your parts then I would recommend more of Shannon's approach of just tracking to see how well things are going, but it could it be done fairly easily by having a computer generate letters? That's the letter I'm looking at as opposed to the high level of enforcement that you are doing, appropriately in high priority areas.

Clem Shute: It would help me, and maybe the conversation, to understand what would happen to this form. We heard testimony from the realtors that it's not their form, that it hasn't been approved by the real estate association or whoever; this is TRPA's form. How would this get used in real estate transactions?

Joanne Marchetta: Clem, I think that's what we're debating. We're looking for guidance from the Working Group as a collective to say—are we taking in the form and adding it to the information. One of the consternations about this form is we know which residential properties are in and out of compliance so this form is a means of reminding the homeowner that there is this requirement. And the next question becomes, 'and then what?' Dan is suggesting for the 'then what?' that we send out a follow-up enforcement letter if that property has not completed its BMPs now. So, the question for us is that an additional enforcement priority in addition to how we are prioritizing with local jurisdictions in area-wide—are we taking the subset of properties that change hands annually and adding that to the priority list of parcels where we would prioritize enforcement? What that may mean is we do less somewhere else.

Clem Shute: Speaking personally, I don't think it should become a priority. My idea is that this is a system that gets set-up, it runs in the background, it helps jack up the compliance rate over time, and doesn't take a lot of staff time. Now whether Dan's computer generated letter adds a big burden, I don't know; it seems like it's pretty modest. But my concern is the language in the staff report about developing this form and developing a robust procedure. What happens to this? Does this go to RPIC/APC and eventually the GB approves the form, and then will it be used in real estate transactions? Will the realtors use it? Will it just go on a shelf some place? What happens to it?

Shay Navarro: My understanding is that the real estate professionals are using the current form. We get requests for the form all the time, we get requests for copies of our single-family residential brochure which is in the materials that are used to provide more of the friendly 'do your part—BMPs are beneficial for the Lake', and it is a tri-fold brochure. They are already using the form. I know they have a legal requirement to disclose so they provide the form. The issue seems to be having the form submitted to TRPA which is our Code requirement and that kind of falls outside of the control of the real estate professional. They do the disclosure and the educational part, and so we are just trying to improve the process so that it is easier for people to submit the form to TRPA.

Clem Shute: Okay, that's good. Sara, did you have something you wanted to say?

Sara Ellis: A variety of things. A lot of you already covered the list I came prepared to talk about today. Currently, the TRPA disclosure form exists in two places during a transaction. It is in our Board documents that are used in our contracts that all of our members use, and in addition, it exists on its own. So, the buyer is signing it twice, if you will. They are signing it in our contract and then currently, they are signing it as a separate piece of paper at which a copy of that goes into the file that we, by State law, have to keep for seven years in Nevada and I don't know what it is in California, and then it is supposed to at that point, get remitted to TRPA on behalf of the Buyer. And through going through this process and revisiting it, I think we've identified that what we missed out on when we first came up with the disclosure form is the remittal part. I know that these disclosures are sitting in real estate files all over the Basin but they are not necessarily sitting in a TRPA file. And so, we are hoping that, well, not hoping, we are going to, we have affirmation from all four Boards of realtors in the Basin that once we get a new disclosure form approved and in process, we are going to go out and re-

educate all of our members and very much specifically focus on the remittal process of that because we think it is the missing link right now. So, does that answer your question about where it is? Okay.

So, a couple of things, and like I said, some of you have already gone over these things. We talked about—just to put it out there—we think that the seller should just be removed from this, removed from signing this altogether. And let me walk you through why that is: because this is a form which a deed holder in the Basin is acknowledging their responsibility for implementation and maintenance. The seller is already part of this process because they are identifying if the cert exists, if it doesn't, etc. But the responsibility is on the new deed holder to the Agency. And so, that is why. I know we are trying to make this user-friendly, but it gets at that you are getting one's signature because it is the buyer remitting it and right now that's how the Code is written—is that the buyer is responsible for remitting, it's not the seller. So, I'm putting that out there for discussion that we just keep it at buyer and then let's talk about that. Right now it says, "purchaser". I'd like to add like a slash that says, 'new deed holder'. Getting at that whole, what we talked about at the last meeting, that not everybody is buying new property. Sometimes they are inheriting them or however they are acquiring them or not acquiring them, and not going through an escrow process so I think that if we can add that word, I think that clears up some of that confusion about, 'is this just for people going through a typical escrow process?'

A question on where you click off if you have a cert or no cert—how do you want to capture those that are purchasing or acquiring property in areas that are currently part of an area-wide implementation but it's not done yet? Or like an HOA that is in process but it is not done yet? Should we have another box that says, 'this property is part of something that is getting done but it is not done yet and here's the projected implementation date'? How do you do that right now?

Shay Navarro:

Right now we only look at the BMP database for the information and so if there is not a certificate, even if it's in process, we click 'no certificate'. Sometimes properties will have their BMPs installed, but we don't have it on record and that happens a lot. Like someone builds a new house and the local jurisdiction is issuing the permit, and we've had some problems where that information hasn't come to us so there is a security return letter and we still have to check 'no certificate', but then we go through that process. If the individuals are able to give us the security return letter, and sometimes we need to do another final inspection if so many years have passed to ensure the BMPs are being maintained, if we can issue a certificate before the final sale of the property is done, then we can say there's a BMP certificate or a source control certificate, but usually we are just going based on what is in the BMP database. And part of that is to get accurate information into the database, but we could potentially have a field where someone can write notes of explanation. One of the recommendations with area-wide BMPs is that right now we don't distinguish between if you are getting a certificate because you've done your parcel specific BMPs or if you are getting your certificate because you have participated in an area-wide. That's one of the recommendations—we want to be able to track that so we can tell how many certificates we are getting from an area-wide, but we typically don't track the progress. We do have a field in the

database that says whether you have had a BMP evaluation done which shows that you've started the process. But we don't require that to be checked on the form, we just say 'no certificate'.

Sara Ellis: If you would find that information helpful. I can anticipate if I'm a buyer and I'm going, 'what are these things?' and it has been explained to me and then my hopeful real estate agent says, 'oh well, this is what your HOA is in the process of'; it alleviates a little concern on the buyer's side, but if you guys can ascertain that pretty quickly I guess we don't need another unless people think it's important to do.

Shay Navarro: Usually when we are enforcing in areas or sending letters to accelerate BMP implementation, we work with the local jurisdictions to have them review the parcels to make sure there are no open permits where BMPs will be installed as part of that permit for either a remodel or new construction. And if there is an open permit then we remove that property from the list because we know that they will be installing BMPs as part of that process. So, with the example you gave of the HOA, if they are in progress then presumably they'll have a BMP retrofit permit. Often multi-family properties do because of their size and the engineering required for the BMPs. Therefore, we would have that information and they would not receive a letter if they are in process. Now if that permit has expired and they are not doing anything to diligently pursue completion of that permit, then they would receive an enforcement letter.

Sara Ellis: Another thing: we agree to put back in the \$5,000 language. We agree that—the whole point of this thing is to catch somebody's attention. In addition, it would be helpful if the first thing people read when they read this is, 'What the heck is a BMP and why do I care?' I think we can do that in a very simple statement at the top—that it's an erosion control measure that helps keep Tahoe clean.

Jason Kuchnicki: Do you hand out those pamphlets, the brochures, with the disclosure form, because that could do the same thing.

Sara Ellis: The answer is yes and no. It depends. All offices have them, but some buyers want to go read it online. It depends on the buyer if they get it in the paper version or if they get it online.

Shay Navarro: And we have both available. We have many printed copies that we distribute and we also have it available electronically on our website.

Sara Ellis: Some people still don't have email if you can imagine that.

Shay Navarro: We do have a link to the .pdf—"Open this disclosure form under 'Obtain a TRPA Pamphlet on BMPs from a real estate professional or online.'" And then we put the two commercial and single-family brochures and the links to our website, on this form.

Sara Ellis: And then I have another in the agreement – and I think this should be somewhere in red. That we want to make sure that they understand. This is an opportunity for education about installation and maintenance. I think both of those things should be

called out pretty clearly, but that you are subject to fines both ways. Have them, install them and keep them current. And that's all I'd have on the form.

But to go to this tracking idea: Technically, the way that you would be able to do that is you would get the list of deed transfers from the county recorder's office from the five counties, well, four because there aren't any in Carson, and then you would somehow, I'm just doing this off of voter databases as all of the counties are different, and the way that you get that information is it looks different. It's not like everybody is working off of the same Excel database. I would anticipate it wouldn't necessarily be the generation of the letter automatically running in the background, but it would then be—how would staff take those four databases of transactions that have occurred and then put that into the culmination of that data and then that desired end result? We try to do that because we try to get an idea of how many properties are out there exchanging that aren't using a realtor member. And it is not easy just because counties all speak very different languages from each other. That's my only comment on that.

Shay Navarro: And just to reiterate—the process that we use now is we work with the local jurisdictions and identify the priority areas and, for example, in Nevada we are writing to receive grant money to send friendly reminder letters to catchments that are in line to be registered; so we are looking at doing active enforcement, sending certified letters to properties out of compliance in registered catchments, but then looking at what catchments are going to come online down the road and sending friendly reminder letters right now. Any property regardless if they were bought or sold within the last year or were part of a real estate transaction, if you are out of compliance get captured in that friendly process.

Sara Ellis: I don't know where we make a notation of this, but we really want this to be a living document; that as this thing progresses, that if we need to revisit the disclosure like we have in the last 10 years, that we continue to have the ability to do that. And I don't know—the way you codify this at the GB—I would be much more interested in codifying that a disclosure exists than the actual language of the disclosure so we can continue to change it if we need to.

Clem Shute: It has become obvious to me that we cannot wordsmith this thing. We are not making any final language recommendations and that the best we can do is to endorse the concept of this draft going in the right direction. I think we've had several agreements like adding the language '\$5,000 fine' directly in it, that it would benefit from having some kind of introduction to explain what BMPs are so that people know why this is all happening, and that otherwise, as it continues to go through the process, there will be other people including some of us, that have suggestions. But we are spending an awful lot of time on this now just talking about wording which I don't think is productive. So, let's have public comment on anything to do with this real estate stuff and the staff presentation.

Shay Navarro: And I'll just add, Clem, we will also add maintenance language as well.

Laurel Ames: Laurel Ames, Tahoe-area Sierra Club. I had no intention of speaking on this issue, but one thing has become apparent and that is that all of this effort is really aimed at people who go through local realtors, and the one thing that we heard that was startling to me at the last meeting was that more than 50% of the buyers don't go through the local realtors. So, I don't know that we have at this point, I mean, this is good and this is a good discussion, but it may not apply to out of Basin people. Thank you.

Clem Shute: I think that—Shay, correct me, but I'm sure that we would make every effort to get this in the hands of escrow companies and brokers and others in addition to real estate agents.

Shay Navarro: Yes, that was something that we discussed. Of having a list of title companies and escrow agents that would be aware of the form and that is something that Sara and I spoke about and we're going to work cooperatively together to make sure that that list is put together and we can distribute the form to them. I don't know if, Sara, you have a list or. . .

Sara Ellis: Just for your own edification, our company also represents Nevada Land Title and we are in communication with the California counterpart—it is the association for the title industry, so we will actually be able to have, much like a real estate industry conversation, a title industry conversation once this is completed.

Shelly Aldean: I had brought this up at the last meeting, how difficult would it be—and Sara maybe you could answer this question, to have an insert in the tax billings that would refer people to the TRPA website to collect additional information about this compliance requirement? That goes out to everybody that owns property who may be thinking of selling property or currently. . .

Sara Ellis: And when we talked about that, my one experience with that is when we did the vacation rental program in Douglas County. We sent a letter to every property owner within the Basin to alert them that that code had gone into effect. And that was just a matter of working with the county to do that, so that could be something down the road, but I think that is also a, 'Guess what? BMPs are still here and you need to do them.' It's not necessarily about the disclosure form; it's more of a 'get them on the ground' thing.

Shelly Aldean: It would be more generalized, but the more we can educate people about the requirement the better. And everybody who owns a piece of property who has come into title recently is going to receive a tax bill and I think that's an appropriate point at which we can educate people about the requirement.

Sara Ellis: That would be more of an assessor question so. . .

Shelly Aldean: Right. . .

Sara Ellis: . . . so we can talk to them.

Shelly Aldean: Okay. That would be great. Alright.

Clem Shute: Sir?

John Falk: Thank you. John Falk, I'm the legislative advocate for the Tahoe Sierra Board of Realtors, and I appreciate this process and how it has evolved. It is actually quite gratifying to watch it from the outside. There are two items remaining on the list of recommendations that I would ask you to at least reconsider, if not remove. And the first is on page 6 under "Compliance and Enforcement", Section 4.1. We continue to believe that TRPA is looking into expanding its enforcement options or police powers via attachment to deed title is a bad idea on a number of levels. Not the least of which is that it does not affect the change you are looking for—it doesn't put BMPs on the ground. It just encumbers title, and so it really doesn't move the ball forward, it just creates an undue burden and another tool that could be divisive.

The second item is on page 7 under "The Coordination of BMP Implementation", Section 5.1. The second half of 5.1 is not bad in principle, but when you read the suggestion it really seems to recommend that this group would back the EIP Parcel Specific Working Group's policies, not all of which are articulated here. And so it seems overly broad as written. And those are the only two items I had. Thank you.

Clem Shute: Any other public comment on this—Items #1 and #2 and the general staff presentation?

Natalie Yanesh: I'm Natalie Yanesh and the president of the South Tahoe Association of Realtors. And first off, I want to thank all of you for having all of us here at the last meeting and for really listening to our public comments and I am not sure that 50% of transactions—that sounds a bit high for the comment earlier as far as out of area agents selling in our area, but I do think we appreciate having the educational information and we appreciate updating this form because we definitely want to disclose this to all of our clients. So, we just want to let you know that we would like to partner with you on this process and we want to be good stewards and let our clients know that this is a really important thing for them to pay attention to, so we appreciate your time. Thank you.

Clem Shute: Thank you. Anyone else? Alright. I don't know if we have a format for going through recommendations because we haven't done that with this group, but my suggestion would be that we endorse the staff recommendations with particular emphasis on appreciating this form as a good start and that the form will continue to be worked on with the idea of more robust disclosure. So, I'd appreciate any comments or motions from the committee.

Shelly Aldean: Well, I guess the question is whether or not we have to reconvene as a working group to reconsider the changes that have been suggested and I would recommend against that. I think we have a general sense of what we want modified so that would be my motion—to incorporate the comments that we've heard here today into a final form to be forwarded on to the APC, the RPIC and the GB.

Clem Shute: The two recommendations – any motion? 2.1 and 2.2? On page 5?

Dan Siegel: Are we going to the Action Plan?

Clem Shute: Yes.

Dan Siegel: I do have comments on the Action Plan.

Clem Shute: Yes, this is in connection with this subject, the real estate disclosure, right?

Dan Siegel: Right, so in the Action Plan, I would suggest, these are wordsmithing changes to conform the Action Plans to what the law currently is and it is in 2.1 on page 5. Where it says, “in lieu of requiring BMPs at point-of-sale”, I would put, ‘in lieu of actively enforcing BMP requirements at point-of-sale’, because BMPs are always required.

Shay Navarro: We have that comment written down from Shannon.

Dan Siegel: Okay. And there was a similar one on 2.2 where it has. . .

Shay Navarro: For 2.2 right now we have. . .

Dan Siegel: Where it says, “Installation of BMPs and point-of-sale can be revisited as an option if outcomes from TMDL implementation are shown to make insufficient gains.” I would have, ‘actively enforcing BMP requirements at the point-of-sale should be revisited if outcomes at the next four-year Regional Plan review indicate that TMDL implementation has made insufficient gains towards improving Lake Tahoe water quality.’

Clem Shute: That seems consistent with the first comment.

Shelly Aldean: We can always revisit anything. I don’t know that we need a specific directive to that effect, but I have no problem with the way it’s been reworded, but Sara may.

Sara Ellis: Clarification on that, and I’m looking at the folks who are doing TMDL over here—where will we be in four years? I mean, will we already have seen load reduction in four years out of the TMDL or how far, I mean, if that’s what you’re looking for, the load reduction has occurred in four years. I don’t want to be set up here for something that isn’t supposed to happen until after four years if. . .

Dan Siegel: Let’s remember, all it says is, as Shelly pointed out, is revisited. It doesn’t mean it will be implemented, it will be. . .

Jason Kuchnicki: I think that in four years we are going to definitely have documented progress. We already have had progress because the TMDL baseline starts at 2004 so jurisdictions can take credit for anything that has been done since 2004, and then in four years from now that is also going to include the next four years as well so, I think that there will be documented progress. Personally, I don’t know if we want to put a timeframe on this. I

think it might be good to keep it flexible because if it's looking like the TMDL is working and we are getting load reductions, do we have to revisit it? No, I wouldn't suggest it.

Clem Shute: I think the reference was in revisiting the Regional Plan and area plan reviews as built into our system.

Jason Kuchnicki: Okay.

John Marshall: Which happens on a four-year cycle, but in two years. So, it is not in four years—it will be two years and two years.

Jason Kuchnicki: Like I said, in two years there should be documentation that the load reduction plans that all of the urban jurisdictions have done has demonstrated that they are on track to meet TMDL load reductions at 10% load reduction by 2016 so we haven't started that process right now because we are actively improving the tools that the jurisdictions will use through the crediting program. Once those tools come online in a little less than a year from now, they will go through the registration process and then by 2016 we should have those actual numbers.

Shelly Aldean: If staff could distill that into a concise motion. . .

Shay Navarro: Just one other comment: The Regional Plan Update is informed by our threshold evaluation which is also done on a four-year cycle. I think it is completed typically a year before the Regional Plan so that it can inform that process and the water quality threshold is evaluated as part of that, so as long as we are including the threshold evaluation in that general broad four-year review, that might be even more appropriate to actually inform how the TMDL is doing.

Karin Staggs: And I think more of what Sara was looking for was the difference between implementation progress of which there is a lot; as Jason said, the SLRPs and the PLRPs have been submitted and the jurisdictions will do everything they can to meet their first 10% milestone load reduction, but before we see actual clarity improvement I think it is going to take decades. And I think that is what you are trying to say. In four years are we going to see a difference, and no, I don't think we are going to see an actual. . .

Sara Ellis: That's why I want to know what you're specifically looking for in terms of what. . .

Dan Siegel: In my mind, is that this generally came out of the, let's not focus on point-of-sale because TMDL is also focusing on taking care of the same problem and it is basically—is TMDL on track? That is really all I'm looking for. And if on track in two years means you are not seeing a change in Lake clarity but you are seeing certain implementation actions that are required by the TMDL plans happening, that to me means you are on track.

Clem Shute: Alright. Any further discussion?

Jason Kuchnicki: I'd just like to get clarification because we heard my take, Dan's take and then the hybrid on the language in there so as the recommendation—I like the hybrid approach. I think I can live with having the fine in there, I think that's fine, although I do recommend that you retain the language of, "may be enforced". I just want to be clear on that.

Clem Shute: No, we've added the carrot part by saying why we are doing all this, why BMPs are important as a kind of an introduction, and the 'may be' was that nobody suggested changing that; we are just adding the reference to the dollar amount.

Jason Kuchnicki: Okay, I just wanted to be clear because the previous disclosure form said, "will be enforced" and I would like to recommend that it says, 'may be enforced'.

Clem Shute: It does.

Jason Kuchnicki: And then also, I could support the motion with that one language change as well as that I had mentioned earlier in 1.1 the Working Group 'supports' staff.

Shay Navarro: I have noted that comment.

Clem Shute: Alright. So, we have a motion. I think we have an understanding of what has been incorporated. We don't know the exact wording, but we will count on our staff to get that right. We will be able to review it and there are many other steps in this process.

Shelly Aldean: Well, the original language in the pamphlet, obviously, has been amended by Dan's modification which really links the root consideration of the installation of BMPs at point-of-sale to whether or not we are meeting our load reduction objectives through the TMDL—not whether or not there is an improvement in Lake quality, so I just want to clarify that.

Clem Shute: Alright. All in favor of this slightly ambiguous motion say 'Aye'.

(Passed unanimously.)

Clem Shute: Opposed? (None). Thank you. Good discussion. Let's go to Items #3 and #4 which are also combined.

Shay Navarro: For Items #3 and #4, these are both modifications to TRPA's Code and Rules of Procedure that staff drafted. Proposed amendments to Chapter 5 of TRPA Code and Articles 9 & 13 of TRPA's Rules of Procedure: to provide greater flexibility in the use of forfeited securities to implement the highest water quality projects as well as considering recording a notice of non-compliance to a property deed in certain circumstances, and the recommended actions are that the Working Group support those modifications and then request the TRPA Legal Committee to review them.

The reason why the Legal Committee is necessary to review these materials is because they have broader reaching implications than just BMPs on people's properties.

Forfeiting securities or recording a notice of non-compliance can be done for a variety of code compliance issues such as unlawful tree removal or excess coverage, not just BMPs and so we'd like to have the Legal Committee review that and both Clem and Shelly sit on that committee so we felt there'd be adequate communication between the two groups.

And then the last action is to improve our enforcement tracking and reporting. One thing that we noticed when we were getting a lot of the data to report out to you is sometimes we will have an enforcement file with multiple APNs, such as we explained with an HOA where you will have several APNs that are associated with one project, and we just want to ensure that when we are tracking enforcement files that each APN is linked to that file. Sometimes we will only have one APN and it doesn't give us the clear representation of how many parcels we are enforcing on.

And then we would also like to report on our enforcement actions annually in the TRPA Annual Report. I know at the last meeting there were some comments that we are doing a lot of things, but maybe the public is not aware of what we are doing and so this would be an avenue. I know the annual report is supposed to communicate TRPA's activities to the public and that would be a good place where we could include some of the BMP data that we want to see on a regular basis on that report and our enforcement activities would be one of those things.

Clem Shute: Committee questions or comments?

Dan Siegel: I have a comment. I think that your recommendation of having this information in the annual report is a great idea. I think that it sounds like, and we heard at the end of the last meeting, that there are a bunch of good things that I think you guys are doing and it would be really helpful for the public to see in the annual report what kind of BMP enforcement is going on. To what extent is the area plan approach, which in theory is a great idea if it could actually be implemented, to what extent is it happening and how many parcels are covered by that? And it would be both a real good idea to inform the public of the good work you're doing and if there are areas in which there is wanting—it would let you guys see that for yourselves and let the public see that. I really support all of the reporting. Having this information as much as possible in the annual reports—I think it's a great idea.

Shay Navarro: And that action is also in line with our TRPA Strategic Plan. One of the four pillars for this round of the Strategic Plan is to improve our information systems and that's why we have our new Research and Analysis Division that is really looking at improving the information of everything that TRPA is doing and making that available to the public.

Shelly Aldean: John, in our discussion, I know that there were a lot of comments at the last meeting regarding the recordation of these non-compliances on property deeds including clouding title and the difficulty, selling loans on the secondary mortgage market, joint ownership developments and how you deal with that if the entire area is out of compliance but individual units may not be. Obviously, TRPA has existing authority to record certain violations or to take action with certain violations and record those

against the property deeds—is that correct? What is our current authority with respect to encumbering a deed?

John Marshall: We don't have any specific authority other than our general authority that comes out of the Compact which is what it would tie back to; but that's one reason why we'd like to move this to Legal Committee to have a full discussion of our legal ability and whether or not it's a good use of that ability to do these things and how to do them.

Shelly Aldean: Well, the only suggested modification to the language in 4.1 I would make, and maybe it is kind of presumptuous, but I don't know that, as a committee, we are necessarily asking the Legal Committee to advance amendments to the Rules of Procedure that have been endorsed by this committee. I don't know if that endorsement is going to be forthcoming. I would just recommend that the Legal Committee be requested to review amendments to the Rules of Procedure including recording a notice of non-compliance to a property under certain circumstances as defined by the Legal Committee. It is kind of nebulous—I don't know what those certain circumstances are, I presume that will be part of our discussion at the Legal Committee level. And again, maybe I'm being presumptuous, but I don't know that the committee is going to endorse the recordation of these notices of non-compliance—that is something the Legal Committee can consider as part of this deliberation.

Clem Shute: Yes, I agree with that because what I read out of this is that we are advancing the idea to the Legal Committee for review and that some of the nuances that you raised about multiple ownership and all that would be taken up there.

Shay Navarro: I can easily strike that language from both 3.1 and 4.1 so it can say, 'Request the TRPA Legal Committee of the GB to review amendments to TRPA's Code, bla bla bla, or request that they review amendments to TRPA's Rules of Procedure.' We can take the rest of that out.

Clem Shute: Okay. Other committee questions?

Sara Ellis: Read that back to me again. You are going to take out the language that concerns the deed stuff and just say that we want the Legal Committee to look at things in general?

Shay Navarro: No, I'm taking out the language of "endorse"—that the Working Group is "endorsing" the modified code and Rules of Procedure language and just leaving it that the Working Group is 'requesting' the Legal Committee to review the amendments. We are not asking them to advance them and we are not saying the Working Group endorsed it—we are just asking them to review them.

Joanne Marchetta: Can I offer a little clarification here? There are no amendments. We are asking the Legal Committee to review the concept of whether or not we would start to use notices of non-compliance and if so, under what circumstances, in a recorded document in the county recorder's office.

Sara Ellis: Just a general statement—I'm uncomfortable with that coming from this committee. John mentioned at our first meeting that that was a concept that you were considering on a broader basis as an enforcement item for all code violations not just BMP specifically. At least that's what I thought I heard you say in the first meeting.

Shay Navarro: That's correct.

Sara Ellis: So I am obviously going to be very uncomfortable having my name on anything that says that I thought that should even be reviewed. I would prefer to have it in more of a legal context conversation in general, instead of having it coming from a BMP-focused committee. So, I would request that we delete 4.1 all together and just let it move through the process otherwise. If it is already going to be there, does it need to come from this committee?

Shelly Aldean: Sara, my only recommendation was to amend the language that says that this committee is advancing an endorsed proposal, because I don't think we are going to get that endorsement at this committee level. And we don't have the specific amendments. You're right, I mean the TRPA Legal Committee can undertake this regardless of what recommendations are made by this committee today, but you know, it is already on the table. The question is whether or not we want to request the Legal Committee to provide further clarity on whether or not this makes good sense within the context of enforcing BMPs or whether, as you suggest or as John previously suggested, we should broaden it to include it as an option in connection with all non-compliances. I mean, if truth be told, we have the ability to do it irrespective of what this committee recommends, you're right.

Sara Ellis: (Nearly inaudible – sounds like "That's alright with me.") To consider it . . .

Shelly Aldean: To consider it.

Sara Ellis: To consider it—yes.

Shelly Aldean: To consider it—we have that option.

Clem Shute: I think we are just saying that, as a committee, if we agree that having BMPs looked at as part of this review would be worthwhile, and we have no idea where it's going to go, whether it's going to be accepted, or what the nuances are at this point.

Sara Ellis: Then I request that we make that very clear. If the deed issue is going to be considered that BMPs be looked at as one of the items under that enforcement procedure, but that in no way was that a suggested thing out of this committee. So, I don't know how you rewrite that.

Dan Siegel: Well, it's not suggested that it not be used either. . .

Sara Ellis: I prefer to remain neutral on it then and just let it happen at the Legal Committee.

- Dan Siegel: I guess I've been affected by staff's very good articulation of the need to focus their resources and to be as efficient as possible to get the best outcomes as possible. And adding the two items here to your tools of tricks would seem to increase the ability to do things more cheaply, if you will, instead of going to court. It's much cheaper to record a notice of non-compliance. Not saying where necessarily it should be, but I think saying those, adding those to your tool kit would be a really good, really good thing to do along the lines of being effective and efficient. And the same is true with flexibility and use of forfeited securities to the extent that you are hamstrung now would be really good to free that up.
- Shelly Aldean: Remember that this is their multiple levels of approval here. I mean the Legal Committee has to go to APC, it will go to RPIC, it will go to the GB. I mean at every level you'll have an opportunity to provide input. I was just trying to suggest that I don't think that we're going to be endorsing any specific amendments here today, but we want the concept in general to be analyzed by the Legal Committee and a recommendation sent forth to the various other levels of approval.
- Shannon Eckmeyer: I was just going to reiterate what Shelly said that I think it is a concept that, I mean, I want you to feel comfortable with it, but I don't want all of that 4.1 to be taken off because I think this is something that is important for the League, that the Legal Committee does consider, and does review and look at, so we don't have to endorse anything today, but I think it is something they need to look at. My second comment was going to be, I don't know if it's appropriate for here for 4.2 or later for 5.3, but I think the tracking and reporting process is great and should also be incorporated into the area plan annual review. Each individual one. I know most of the area plans, the two adopted today are only dealing with compliance and leaving TRPA with enforcement, but the ones coming up—Placer, Douglas, Washoe—will be encompassing all of their jurisdiction and I am not sure what their BMP plan is going to look like, but if they do an area-wide and they are involved with enforcement and any type of retrofitting, I think their area plans need to include tracking on how that's working out.
- Shay Navarro: Should we address that when we review the area plan topic under number 6?
- Shannon Eckmeyer: Sure.
- Shay Navarro: Okay. We will revisit your comment when we get there because I think it might fit better.
- Shannon Eckmeyer: Okay.
- Clem Shute: Other committee questions, comments? Public comment?
- Natalie Yanesh: Thank you. Natalie Yanesh. I just think this whole issue of clouding title—you are going to have to be very cautious with that. To give you a kind of realtor perspective on that—clouding title, I see it as a disincentive for a property owner to invest in their own property. And an unintended consequence might be that you'd have properties that would just sit there forever that are unsellable or un-loanable. And that probably would

have major issues. So, I just feel like that is something that is kind of scary to think about—deeds of non-compliance, just from a realtor's perspective when I am dealing with sellers. A lot of the time you'll have property owners who may not have the funds to invest in that and then you can't get a new buyer in to actually purchase that property and remediate whatever issues are going on with it. Thank you.

John Falk: John Falk, Tahoe Sierra Board of Realtors. My apologies—I was late to the meeting so I did not know that the format was such. So, I won't reiterate those comments, but I will suggest that the issue is already on the table. I don't think this Committee's document needs to include it for it to go to Legal. And it just adds traction to the idea whether you call it an endorsement; if you include it in this document I think that it ends up being viewed as a favorable idea. And I would hope that this group hasn't come to that conclusion. Thank you.

Clem Shute: Other public comment? Are we ready for a motion on the staff recommendations?

Shelly Aldean: I'll make a motion and I just want to reiterate something. I think that including it I don't think is necessarily, well, I know it's not an endorsement proceeding in this direction. We understand that there are a lot of implications associated with this and any recommendation that might come forward to include this as one of the tools in our tool box. But it is already on the record as something that has been proposed. The best venue for considering any such change is at the Legal Committee level and I suspect it will be a very robust discussion. But having said that, I move that we endorse Items #3 and #4 with the amended language on the record which would include, under Item 3.1, that the Legal Committee is being requested to review amendments to TRPA Code. Similar language would be included in Item 4.1 with the removal of the same language and advance the endorsed because we are not endorsing any specific recommendation at this time.

Sara Ellis: I ask for a friendly amendment that we vote on each item individually.

Shelly Aldean: Okay.

Clem Shute: Alright. Okay, so the motion is the same but the language is different in each of the provisions, but are we ready to vote? So, we are voting on the motion in respect to Item 3.1 of recommendation actions. All in favor say Aye. Opposed?

(Passed unanimously.)

We will now vote on Item 4.1 as changed. All in favor say Aye. Opposed?

(Passed unanimously.)

We will now vote on Item 4.2. All in favor say Aye. Opposed?

(Passed unanimously.)

Alright we have our action. Let's take a five minute break.

Shannon Eckmeyer: Really fast before the break—Shay, if it is possible for you to let the group know when it is being reviewed at Legal Committee so if we want to attend those meetings that would be great.

Shay Navarro: We can do that.

Clem Shute: Alright, five minute break.

BREAK

Meeting reconvenes.

Clem Shute: Item #5. Shay—you're on.

Shay Navarro: Thanks, Clem. In an effort to move forward so we can get through the materials. We are looking at discussion topic #5 which is to target and prioritize accelerated BMP implementation in coordination with local jurisdiction load reduction plans. And so, just some background: we've done a lot of targeted enforcement to accelerate BMP implementation in all land use categories with the support of grant funding and that has happened since 2003. And with these efforts, I think we've sent out close to 2,000 letters, and for this season alone, we have sent close to 300 letters. I think from the time that I wrote this I had 270, but we are in the process of sending some more, so close to 300 letters to non-compliant properties in both the City and Washoe County, and we are working with the conservation districts to provide the technical support and facilitation to help bring those properties into compliance.

Whenever we reference the EIP Parcel Specific Working Group, that is a Working Group that meets quarterly on a regular basis and it is made up of implementers, local jurisdiction and agency staff that are either implementing the TMDL or working on parcel specific BMPs so that is usually a venue in which we can communicate and have open communication and coordinate with the local jurisdictions in the areas where we are targeting enforcement. As part of that process, we did secure grant funding to update the charter in the Strategic Plan for that Working Group which is intended to outline the missions and the goals for that Working Group and identify roles and responsibilities for TRPA and the partner agencies. That group helps coordinate the areas targeted for prioritization. What catchments are being registered, what catchments are in line of being registered, which properties are really a priority for the local jurisdictions, are there areas where they want to do area-wide vs. parcel specific—that is the venue in which we discuss a lot of this. And doing a strategic plan or updating the Strategic Plan would help solidify these different approaches that each of the local jurisdictions and TRPA can take to accelerate BMP implementation. Because, as I mentioned before, it is not a one-size-fits-all.

So, our recommended actions are to first, update the TRPA enforcement strategy. This was something that we handed out to you in the materials for the July 8th meeting. And

right now, it lists the different items by which an area is prioritized. It includes proximity to the Lake, as we had mentioned the lakefront properties, the proximity to sensitive lands like stream environment zones, and the proximity to public water quality improvement projects because we don't want to have private runoff coming in and affecting these public projects, but it does not specifically say to coordinate with local jurisdiction TMDL load reduction plans. That is one of the first actions—to amend that so it includes that as an enforcement priority.

And then the next actions are to update the Charter and the Strategic Plan for the EIP Parcel Specific Working Group. We have funds to do that, but it hasn't happened yet.

And then the last action is to improve BMP compliance tracking and reporting. This involves talking with local jurisdictions that TRPA has MOUs with to make sure that the reporting information is improved to get accurate BMP compliance information. As I mentioned before, one of the things that we've noticed when we do enforce an area, and that is usually when these issues come to life, there are a lot of cases where they've had a remodel or new construction as part of a local jurisdiction permit and that information has not always been transferred to TRPA. We do receive information from some of the local jurisdictions monthly or quarterly of which properties have received a BMP certificate as a result of completing a permit, but some jurisdictions are better than others so we did communicate with our Current Planning manager who oversees the MOUs with the local jurisdictions and it is something that we would like to reiterate in the procedural guidelines just to make sure it is very clear what information is required by us so that if BMPs are completed as a result of a project that is permitted by the local jurisdictions we are getting that information into the BMP database. And a lot of times the database has focused on BMP retrofits in its inception, but the requirements are being met through other processes than just BMP retrofits so we just want to improve that process to get the most accurate information in there so that when a real estate agent does look up a property and it says, 'no certificate', but the BMPs are done, hopefully, we can get that more reliable information in there.

Those are our three recommended actions for coordinating BMP implementation with local jurisdiction load reduction plans.

Clem Shute: Committee questions or comments?

Shannon Eckmeyer: Just the same comment that I made last time. I think it might be more appropriate to put it in 5.3 with area plan annual reporting rather than in 6.2 what we are going to discuss next because that is just related to area-wide water quality treatment so I think just under 5.3, coordinating with the annual reviews of area plans as well.

Shay Navarro: Okay, so Shannon—can you be a little bit more specific? You want an annual review of area plans?

Shannon Eckmeyer: Well, the annual report that is associated with each area plan should just have information on BMP compliance and enforcement because, theoretically, each new project coming through has to, as required by law, to have a BMP, but I think those

reports should also have information on what they are doing in coordination with TRPA with enforcement and, like, for example, the MOUs you were just talking about and any project that is being updated.

Shay Navarro: So, as part of that area plan annual reporting, if they looked at BMP compliance for properties that are in an area plan would that capture that?

Shannon Eckmeyer: Yeah, that would be, and then again I know we will talk about this in the next section, but how the enforcement is happening on their level in coordination with area-wide. You know, what those targeted areas are looking like, if it is working, if it is in compliance with their goals of their area plan. I know that most of the area plans aren't taking on responsibility for enforcement, just, you know, but if they are, again, I haven't seen the policy for all of the upcoming ones; I don't know what it's going to look like, but . . .

Joanne Marchetta: I think the general rule is: if we have delegated permitting authority to the local jurisdiction then that jurisdiction will bear the responsibility for enforcement on those properties where they have delegated permitting authority. For any projects that aren't delegated, then TRPA keeps the enforcement authority. So, it is not their refusing, I mean, there is no affirmative refusal here to take on BMP enforcement authority; it is simply a line drawing based upon delegated permitting authority.

Shannon Eckmeyer: Okay. So, I just asked that, is this discussed in the report or the area plan?

Shelly Aldean: In the annual report, as I understand it; you do spot checks on permits that have been issued by the local jurisdictions to ensure that they have complied with the requirements under the RPU, correct? And that would include whether or not the local jurisdiction has verified that a property for which a permit was issued has been successfully BMP'd.

Jason Burke: And then just to follow up on that. I think that's the opportunity to ensure that all of the locally permitted projects are adequately represented in the BMP database to ensure that when we do, through the new development and redevelopment requirements, have people BMP it just to ensure that they also get a certificate because they are not going through the retrofit program—they are doing it through the new development/redevelopment process.

Russ Wigart: Russ Wigart, El Dorado County. In areas where there is high commercial, some industrial, potential multi-family, it makes the most sense, and I think that's where most jurisdictions are going to be taking this credit. In areas where there are residential BMPs, for example, El Dorado County unincorporated areas—we have very little commercial and multi-family so, and as the graph showed earlier with the pollutant potential, it is so low that to take on the responsibility of the tracking, inspection, enforcement component of this and have such a minimal benefit it then becomes cost prohibitive for us to even take credit for it. And so, as El Dorado County, there is a very good possibility that we are not going to take credit for residential BMPs through the TMDL because if we are required to do rapid assessment methods to be able to inspect

these BMPs that we are virtually getting no credit for then it doesn't become cost effective for us to be able to justify running this program. The City has a different scenario than what the County is dealing with, so just so you know, in the future, according to our PLRP reduction plan, at least in the next 10 years; we are not planning on taking much credit for those types of actions.

John Marshall: Can I just clarify that there is a difference between the delegation notion here and then the crediting TMDL notion. Those should be teased out and not over-linked because the delegation issue has to do with permitting, and generally, permitting projects and installing BMPs is not a significant issue. It happens, you know, you don't get your permit until you complete everything so what we've been talking about in terms of enforcement, that's kind of a compliance issue whether you have complied with the terms of your permit, we do an audit, and you get a score, etcetera. Russ is talking about the TMDL thing of things where whether or not you're claiming credit as part of your TMDL load reduction piece and then the local jurisdiction does take on the responsibility for retrofits. Not the permitting aspect, but retrofits, and then following up on those retrofits. If they don't do that, then that always lies with TRPA. So, it is not really part of an area plan MOU delegation notion.

Clem Shute: No, but if there were an approved area plan in Meyers and there was an MOU, then the report that Shannon is talking about from the Meyers area would include information about BMP compliance, correct?

John Marshall: If you are talking about it from the terms of permitting, because there is the delegation, and that's what really triggers that area plan reporting. So, if there is a delegation of permitting authority, then what is coming through is how many permits they issued, whether they are in compliance, etcetera, and whether or not there is some degree as to whether or not they get additional BMP implementation because of permitting. It has to be permitting of a non-BMP'd parcel to have a new BMP put in place. So that's the kind of reporting that would come through the area plan.

Shannon Eckmeyer: And that's what I'm talking about. I think we all just need, that is exactly what I am talking about. I think there is a difference between the TMDL reporting and tracking, and I don't think the TMDL can be used as a substitute. I'm not saying I don't support it, I think everyone at this table supports it, but it can't be used as a substitute for this type of reporting and tracking that I am talking about.

I am agreeing with what you said, John.

(Laughter all about the room.)

John Marshall: Maybe I should just shut up, but that is such a small part of the BMP issue because you are really talking about a small subset of what's being done—projects that are happening—they are being delegated; projects that are on parcels that do not have BMPs and so, yes, but that is part of a standard delegation monitoring program. Overall, looking at greater BMP compliance, but that will be brought in and tracked as

part of the gradual reduction of the BMP obligation because those parcels are shifting from non-compliance to compliance.

Jason Burke: And I would just follow up that it is really not an area-wide issue like under the delegated MOU permitting for new development and redevelopment regardless of area-wide or not; it is a requirement of our stormwater permit and of the MOU that for all new development and redevelopment that they have to do the BMPs. And like you said, it is much easier when someone needs a permit from us because then they have to do it to get a permit.

Clem Shute: Alright. And like a lot of issues around here I think we have clarity on that one.

Russ Wigart: And as far as the residential BMPs go, El Dorado County is in full support of the program and moving it forward. The volume reductions from those parcels have huge volume reductions, stormwater volume, to our systems so there is a benefit that is to be attained there. So I was just talking about the effectiveness of the overall program in regards to our PLRP. The other thing is, the instituting of fines on there—I'm not seeing support of that, but using any of those fundings to be able to generate or to be able to implement the tracking/recording/enforcement of those, that would be much more appealing to local jurisdictions being that because the pollutant potential is so low and the benefit, at least from our standpoint as we know it right now, has not given us much credit as we would like compared to road systems. It would be much more appealing having some of those monies goes directly to a fund that could be used for doing just that. And possibly not having it so stringent in there, like fiscal penalties up to \$5,000—because we haven't exactly been very good at enforcing this in the past, if you're going to do it as a big blanket for the whole BMP program. Thanks.

Clem Shute: Other committee questions? Comments?

Sara Ellis: Maybe this is a, hopefully, a housekeeping item—where you are asking us to support the recommendations coming from the EIP Parcel Specific Working Group, which I know there are people on this committee who are on that group, but most of us aren't, so in general, I am hesitant to support something I don't know anything about and further something on. I don't want to step on their toes either about endorsing. . .

Shay Navarro: Which action are you referring to?

Sara Ellis: "Recommended actions and other priorities recommended by the EIP Parcel Specific Working Group". Maybe it is just language that doesn't need to be there, and then 5.2 is, "use existing grant funding to update the Charter and Strategic Plan for the EIP"—and again, I don't want to step on whatever it is they're doing because I don't really know what they are doing. Is that housekeeping maybe? Is it as simple as—we don't need to comment on it?

Shay Navarro: It is just one of the actions that being recommended. It is a working group focused on parcel specific BMPs, updating the Charter and the Strategic Plan basically, documenting the different strategies that local jurisdictions can take and making sure that even if they

are using a variety of those strategies, there is consistency between the different jurisdictions, i.e. if area-wide is being used in Placer County that it is going to be used in the same way in the City. It is a way to document what the different strategies would be.

Sara Ellis: But do you need this committee to sign-on to something that is a recommendation already coming out of the committee, or can we just keep it separate and delete references to things outside this group?

Shay Navarro: I will delete the reference of the other priorities recommended by the EIP Parcel Specific Working Group under 5.1, but for 5.2 it is still an action. We did secure funding but we have not completed this action yet so that's why it is included here.

Clem Shute: But why wouldn't we want our enforcement strategy coordinated with the EIP priorities? That seems to me that that is part of the comprehensive idea of enforcement strategy.

Sara Ellis: My concern, Clem, is just that we are talking about something that we don't know what we are talking about because we don't know what those priorities are. I don't feel comfortable saying, 'Yes we agree with all of those', when we don't even know what they are. Am I reading this correctly?

Clem Shute: (Speaker is off mic and nearly inaudible.) . . . that's what coordinate means; is that compliance has a coordinated enforcement strategy included. . . and the EIP priorities—we are not endorsing those priorities, we are just saying our enforcement strategies are . . .

Sara Ellis: Okay, perhaps I am reading it incorrectly. Which way did you mean it? Do you mean in coordination with that?

Shay Navarro: We can change the language to say, 'in coordination with the EIP Parcel Specific Working Group' rather than, 'other priorities recommended by' them. We can just say, 'Update the enforcement strategy. . .'

Joanne Marchetta: Switch it around. 'In coordination with the EIP Parcel Specific Working Group update, the TRPA enforcement strategy to include coordination with local jurisdictions' load reduction plans and area plans.'

Sara Ellis: Yes.

Shay Navarro: Thanks, Joanne.

Clem Shute: Public comment? Are we ready for vote?

Laurel Ames: I'm following up on Sara's comment because I was very unaware of any EIP prioritization of the BMP program and I was coming here to talk about the prioritization which we actually did, you all did discuss slightly last time. I'm very concerned that there is an effort, and it appears to be an effort—there's the Stormwater Management Program

framework that shows that single-family residential is .89% of the Basin, but that is a very interesting percent. You total those and everything on it totals 3.52% and so one wonders what is in the other 97% of the Basin.

Shay Navarro: The majority of the other percent of the Basin is public land like Forest Service land.

Laurel Ames: Well, they're only 70%. There is something missing here. At any rate, this does include Forest Service roads by the way. At any rate, the other part of this is this issue of BMPs on single-family homes not being important in the total load and yet their load, and that's another table that is shown here, is much greater, on page 7, for single-family residential. The number they show for average TSS runoff concentrations is 56 milligrams per liter as compared with much higher numbers for other land uses. This number is based on one single-family house so when you look at the acres of commercial and the acres of multi-family residential and the acres of single-family the comparisons don't work. It is not just this tiny small percent. It is additive and it's a high percent. So, that's a big concern, but if the EIP Committee is prioritizing the land uses and the runoff and all that, then that changes the discussion here because single-family BMPs become extremely unimportant and you've spent several hours this morning going over something that, apparently, according to some people, has this much impact. I'm stating a concern. I don't know how to deal with it at this point. It seems to be bound up in a bunch of different meetings. But thank you for the opportunity to comment.

Shelly Aldean: Based on my notes of that discussion, I think in terms of prioritizing and, Joanne/John, correct me if I'm wrong, or Shay/Adam. We had priorities based on adjacency to EIP erosion control projects, properties adjacent to Lake Tahoe, tributaries and stream environment zones, properties with obvious discharge, hot spots, properties with existing violations or with expired but open permits and retained securities, and properties about which TRPA had received verified complaints from other jurisdictions. I mean, that was kind of a summary wasn't it?

Shay Navarro: As well as area-wide BMPs. That is also included in the strategy.

Shelly Aldean: Yeah, okay. It was included under EIP erosion control projects, but I think that is the universe that they are talking about, if that gives anyone any comfort.

Shay Navarro: That's correct.

Clem Shute: Any other public comment? Are we ready for a motion?

Jason Kuchnicki: Just a couple, pretty minor subtle things I should say, with respect to the Action Plan. And so, one is in relation to 5.1—it might be helpful for that enforcement strategy to articulate, it might be clearer in TRPA's head, that distinction between what John had mentioned, between the delegation vs. the other component. So, that might be worthwhile adding to your strategy. I don't know if that's something that you are going to be publicizing, you know, putting on your website for people to take a look at but it might be helpful.

The other thing related to that is, in coordination with load reduction plans and perhaps the title of this whole concept, I might suggest it could be broadened to include coordination with the local jurisdictions on enforcement. The way it reads here is it seems to place the burden solely on TRPA and I think there is a responsibility on the local jurisdictions especially when they are going to be trying to get TMDL credit for it; that the burden is going to be partially on them as well. They can't just say, 'Hey, TRPA—you need to do this enforcement.' I think that the example that you pointed out with the Bijou Project at the last meeting was a great example of how things can work and how I think we should be moving in the future.

And then in 5.3, somewhat recommended in the BMP maintenance topic, to support local jurisdictions—I think that this improved tracking and reporting needs to include BMP maintenance. And as we talked earlier about the verification process by which the jurisdictions are going to have to go through in order to get credit for these parcel BMP implementations: my understanding is that right now there is somewhat of a mechanism for tracking that through the database, but I think that there's room for improvement and we should work towards that as well.

Shay Navarro: And we'll discuss that in more detail under Topic #8.

Russ Wigart: Are the local jurisdictions responsible for inspections for commercial areas or multi-family for properties that were retrofitted prior to the baseline load calculations? Is TRPA responsible for those inspections? Because we are only taking credit for improvements post-baseline. Does that make sense?

Shay Navarro: If the local jurisdiction is obtaining TMDL credit for any private parcel BMP then the local jurisdiction will be responsible for verifying that those BMPs are remaining effective and functional.

Russ Wigart: So, then it is a shared program where the inspection is taken on by both entities? We are only taking credit, I say "we" are, but local jurisdictions are only taking credit for those parcels where there is a load reduction as a result of a pollutant load reduction plan that we are taking credit for. Everything prior to that will still be TRPA's responsibility to inspect and track?

Shay Navarro: I'm not sure I'm following the timing thing, but basically, if you're not obtaining credit from that private parcel, the BMPs on that private parcel, then it remains with TRPA. But if you are taking credit for it, then the verification of maintenance to show that those BMPs are effective is with the local jurisdiction.

Russ Wigart: Okay.

Shay Navarro: TRPA does have some funding, and we will discuss this in Item #8, to support some of the local jurisdictions and our funding is different on the California side than on the Nevada side so we have greater flexibility on the Nevada side. And as we have funding available, we can provide support in coordination with the local jurisdictions and we're

doing that and we will continue to do that right now through 2015, but our funding is limited on the California side. We cannot support direct TMDL implementation with the funding that we have so we won't be able to provide that same support.

Russ Wigart: You answered my question. That's great. Thank you.

Karin Staggs: And with respect to Jason's comment about, "in coordination with load reduction plans", for example, Washoe County is actually working with TRPA and saying, 'here are the catchments we intend to register, here are a bunch of APNs that don't have certifications yet—send enforcement letters or whatever they are, to these specific people'. And so, they have existing funding to do that, so Washoe County is working with TRPA under existing funding so they know they have to do it in the future, but for now we are doing what we can.

Clem Shute: Did you have any language changes that you wanted to make in these recommendations? Because compliance, in 5.3 for example, captures maintenance; it's just not installation that includes maintenance.

Jason Kuchnicki: I didn't specifically have anything that I worked out, but just calling out that need for including maintenance might be beneficial.

Shay Navarro: And that's something we can include in the procedural guidelines with the MOU.

Jason Kuchnicki: And with respect to 5.1, I wonder if just striking, "update the BMP enforcement strategy", instead of "TRPA" might be more inclusive.

Shay Navarro: Okay. Thank you.

Clem Shute: (Speaker not using microphone—nearly inaudible). So, if we are ready for the motion. . .

Shelly Aldean interjects.

Shelly Aldean: And correct me if I'm wrong, but 5.1 would be amended to read, 'In coordination with the EIP Parcel Specific Working Group, update the BMP enforcement strategy to include coordination with local jurisdiction load reduction plans and area plans. Update enforcement priorities intend to implement the 2012 Regional Plan, support the TMDL and be additive to existing criteria by which TRPA and local government prioritize enforcement.'

No changes to 5.2, as I recall.

5.3: the improvement of BMP compliance tracking/reporting would include an annual report on the random spot checking of permits issued by local jurisdictions as it relates to BMP compliance;

And then the last, and I'll let staff wordsmith that, the last sentence would read: '...and report out on enforcement actions annually in the TRPA Annual Report improving

collection and reporting of BMP compliance and maintenance information supports the TRPA's strategic plan', and we, I'm sorry I forgot to add, 'and maintenance', in the second line—so streamline "TRPA and local jurisdiction BMP data collection processes reporting to improve accuracy of BMP compliance and maintenance information."

So, we add '...and maintenance' in two spots.

Clem Shute: That's a motion. Any discussion?

Jason Kuchnicki: I'll second.

Clem Shute: We are an unusual body here in the United States. We don't require seconds and I don't know why.

Shelly Aldean: Because we're special.

Clem Shute: I guess so. All in favor say Aye.

Clem Shute: Opposed?

(Passed unanimously.)

Clem Shute: Passes unanimously. Alright, let's go to Item #6.

Shannon Eckmeyer: And Shay, really quick, same thing—if you could just let everyone in this group know when the EIP Working Group meets, so if we want to attend when they discuss the enforcement strategy that would be great.

Shay Navarro: Okay.

Moving on to Topic #6 which is to facilitate and promote area-wide treatment and in-lieu fees.

As you know, all properties have an obligation to meet BMP requirements, but there are different ways in which properties can come into compliance including area-wide treatment. And the Regional Plan advanced some greater flexibility for the use of area-wide treatments. In the past, our Code allowed them for properties that were constrained, meaning they could not infiltrate. The 20-year/1-hour storm onsite for a variety of different reasons like perhaps there is high ground water or there is bedrock or there is some other utilities, different types of constraints, but the Regional Plan said area-wide plans can be used anywhere as long as they show greater or equal water quality improvement to parcel specific requirements and they are included in a local jurisdiction area plan. Therefore, the ones that are not constrained have to be included in an area plan. We presented last time about the Bijou Project which is an example of a constrained area-wide.

We also talked about multi-faceted projects such as Harrison Avenue where you have many benefits, many threshold improvements that are happening that include lighting and landscaping, bicycle and pedestrian improvements, as well as water quality improvements.

And we have already talked about the enforcement process: that we partner with the local jurisdictions to send out joint letters; if they are doing an area-wide the properties can receive a full certificate if they participate in the area-wide program.

And we also talked about area plans that are currently under development. Both the Tahoe Valley Area Plan and the Meyers Area Plan have area-wide BMPs that are being proposed as part of those area plans.

Our recommended actions are to identify additional opportunities for area-wide treatment and other multi-faceted projects and incorporate them into other area plans under development including Placer County, Washoe County and Douglas County. We've already mentioned that Meyers and the City are moving forward with that. And to coordinate compliance efforts in the areas that support the greatest load reductions. And then here we also include, to track and report in the annual report, properties that have received a BMP certificate from participating in an area-wide water quality treatment.

Right now, we only track if you have a full BMP certificate or if you have what is called a "Source Control Certificate", which means that you are constrained—you can't do the full infiltration on your property, but you have done your sediment source control and fire-defensible space requirements, so you have done what you can do on your property and for those properties we issue a Source Control Certificate with the understanding that if an area-wide for that location comes on down the road, to get a full certificate you will have to participate.

We are recommending an action to track that in our database so that it is clear when a property receives a full certificate for participating in an area-wide we can distinguish that from properties that receive a full certificate for doing everything onsite.

Clem Shute: Committee questions or comments? Public comment? Is there a motion to support the recommendations?

Shelly Aldean: So moved.

Clem Shute: All in favor say 'Aye'.

Clem Shute: Opposed?

(Passed unanimously.)

Clem Shute: Passes unanimously. Item #7.

Shay Navarro:

One of the topics that was identified by the Working Group for discussion was to seek funding for additional incentives to encourage BMP compliance such as a robust subsidy program through reimbursements. TRPA currently provides several incentives to encourage BMP compliance. These include development commodities offered in exchange for relocating development out of sensitive lands and moving it into a town center when BMP improvements are installed. We also have some exemptions from the calculation of land coverage for temporary coverage, pervious coverage, and ADA facilities when BMP improvements are installed. And then we also administer the Lake-Friendly Business Program. This is a program that targets high pollutant-potential land uses such as commercial properties, and provides advertisement to those properties when they submit proof of maintenance. When they show that they've vactored out their sub-surface treatment with a receipt or provide photo documentation or a number of the other verification materials that we have outlined in Chapter 6 of our BMP Handbook, they can receive advertisement and it is a maintenance incentive program.

Our recommendations are to evaluate the Regional Plan BMP incentives during the four-year update cycle and using the annual Regional Plan Performance Measures and adjust the incentives as needed. These incentive programs are newly developed since adoption of the Regional Plan in 2012 so they need some time to work. We also have an action to pursue new grant funds as they become available for incentive programs including the Lake-Friendly Business Program. As far as a robust subsidy program through reimbursements, we looked at some precedent examples such as the STPUD Turf Buy-Back Program and how much money it took for them to provide a reimbursement to properties. This program, if you are not familiar with it, is in regard to properties that remove turf and then receive a certain amount of money for every square foot of turf that they remove, and it requires a large chunk of funds to be worthwhile to actually administer it. And a lot of the funding sources that are available right now are rather small, so if you submitted a grant proposal that would be the only task that the portion of funding available could support. We are looking at additional grant applications right now to continue support of the Lake-Friendly Business Program.

And then our last recommended action is to coordinate and partner with other entities like the League to Save Lake Tahoe to leverage communication and outreach efforts in order to increase the use of existing BMP incentives including the Lake-Friendly Business Program. And we have partnered with the League regularly and have done a number of outreach efforts with them. They have a great communications program and any coordination that can help leverage their efforts with our own is encouraged, and I know that we've met with them already to discuss the Lake-Friendly Business Program. They have a Blue Business Program so we are looking at ways that we can coordinate and leverage our efforts.

Clem Shute:

Any questions or comments? Public comment?

I just would ask—where does the money come from right now for the Lake-Friendly Business Program?

Shay Navarro: Right now we have funding from both the State of California and the State of Nevada through their 319 grant funds which are federal funds that are passed through by the states. We have funding through December 2015 on the Nevada side, and then through December of 2017 on the California side and that's just typical cycling of grants. They are usually a two-year funding period and we are in the process right now for applying for additional Nevada funds with their Nevada 319 program.

Clem Shute: Alright. Are we ready for a motion to accept the staff recommendations?

Jason Kuchnicki: So moved.

Clem Shute: Alright, it's been moved that we accept the staff recommendations for Item #7. All in favor say 'Aye.'

(Passed unanimously.)

Clem Shute: Opposed. Passes unanimously. Item #8?

Shay Navarro: Discussion Topic #8 deals with BMP maintenance and adaptive management. And it is no surprise that operation and maintenance of BMPs is important for them to remain effective. The concern comes when BMPs are installed on individual properties; we have approximately 43,000 separate systems that have to be operated and maintained, and it is time-intensive and resource-intensive for TRPA and local jurisdiction staff to follow-up with those properties to make sure that they are being maintained. Private and public partnerships with area-wide treatment systems provide more efficient and cost-effective maintenance as well as a long term funding mechanism with the in-lieu fees. And I already mentioned it earlier, but I know Jason Burke, last time the group met, commented that it is much easier for the local jurisdictions to send out a staff person to do maintenance on an area-wide treatment where it can be documented and recorded rather than having that staff person spend their time following up with individual properties to ensure maintenance is being performed. And that's a combination of what we do right now.

We do try to incentivize maintenance. I just mentioned the Lake-Friendly Business Program which is incentive for commercial properties to perform routine maintenance and then we also have educational materials on our website on BMP maintenance. And right now, local jurisdictions have to verify maintenance in order to obtain credit for the Lake Clarity Crediting Program with the TMDL. And again, as we discussed during the last topic, the responsibility does lie with the local jurisdictions if they are receiving credit. And TRPA will provide support as funding is available, and we do have funding that allows us to do that on the Nevada side. But our funding is constricted on the California side where we cannot support direct TMDL implementation with those funds. That is part of why we have this language in here.

And then as far as adaptive management is concerned, that is somewhat of a separate topic that was joined in with BMP maintenance. TRPA Regional Plan does adhere to a regular 4-year cycle of plan evaluation and update to facilitate amendments determined

necessary through an adaptive management process. As it is written in the Regional Plan, the Adaptive Management Process considers the status of the plan implementation, progress toward thresholds, and updated science to determine what, if any, Regional Plan amendments are needed. We feel that there is an adaptive management process already in play with the Regional Plan.

We have information on maintenance in Chapter 6 of our BMP Handbook and we are working with the two states and specifically, with the Nevada Division of the Environmental Protection Agency who is developing a maintenance verification protocol. So, we want to make sure that what we have in the BMP Handbook is consistent or in-line with what's developed for the Lake Clarity Crediting Protocol. We do provide information in the Handbook and we can revoke certificates for properties that do not maintain their BMPs.

Therefore, our recommended actions are to update the inspection/maintenance/monitoring chapter of the BMP Handbook with verification protocols so that they are in-line with the Lake Clarity Crediting Protocol. That is something that is being developed right now. There is also a recommended action to include submittal of a BMP maintenance plan as a standard condition of approval for all permitted projects; what is written here is, "all permitted projects", not just BMP retrofit projects; and I'd like to suggest a modification to this that says, 'for all commercial and multi-family permitted projects', because those are the projects that have the higher pollutant potential and are really the areas in which the local jurisdictions are looking to potentially verify maintenance because of the higher amount of pollutants that come off of those properties.

Right now, when we do a BMP retrofit program, as a standard condition of approval, a BMP maintenance plan saying, 'Here are my BMPs and what I have to do to maintain them', has to be submitted as part of that and it is kept with the file. And when staff goes back later, whether it is local jurisdiction staff or RCD staff, or TRPA staff, it makes it a lot easier to know not only what BMPs are in place, but what is required for them to be maintained moving forward. So, we would like to make that recommended change and we have discussed it with our Current Planning Manager who is in support of it.

In doing maintenance follow-up right now, we've found that a lot of people, when they responded to maintenance verification letters, will say, 'Well, I obtained the property back in 2005, this certificate is from 2003—I don't even know what BMPs are on my property—can you come out and help me and tell me what I need to do?' And so, it's very time intensive for staff to go out and basically do what we call a "reverse evaluation", where we look at what's on the property and backtrack, and think about what's there, and perform file research so that we can help the property owner know what they need to do to maintain their BMPs. So, that's really what this 8.2 is getting at. If there was a BMP maintenance plan with all of these commercial and multi-family projects it would improve it.

And then 8.3 is just reiterating the Adaptive Management Process to update water quality policies and ordinances as needed through the Regional Plan Adaptive

Management Process. This includes regular updates to the BMP Handbook to ensure information reflects current best practices such as requiring pre-treatment for certain infiltration systems to facilitate maintenance. And that is something that we do with the BMP Handbook ongoing as needed.

Those are the three actions for maintenance and adaptive management.

Clem Shute: Questions? Dan?

Dan Siegel: I have a comment, I guess. I think it would be useful to also include in the Adaptive Management Process a review of whether the shift away from active enforcement on single-family residences, blanket enforcement, is in fact working and the right approach. I know it is based upon modeling and a belief that that is the best approach, but it may be that through adaptive management, through additional collection of information, and information about what runoff goes from single-family residences onto roads and so on, that that may be modification that is appropriate.

Shay Navarro: So, to include that. . .

Dan Siegel: It would be including a sentence probably after 8.3. I didn't come up with the words but maybe—we have a prior sentence that says, “these include”—maybe add a sentence, ‘it also includes a review of whether TRPA’s shift away from blanket single-family residential BMP enforcement is working’.

John Marshall: I guess I would dispute that we’re shifting, or that we had a shift—I disagree with your premise.

Dan Siegel: Okay, whether a shift, whether a focus on, ya know, whether limiting focus on single-family residence enforcement is the best, is an appropriate approach.

Joanne Marchetta: Can I ask, Jason (Kuchnicki)—how would we do that? That’s a re-evaluation of the TMDL.

Jason Kuchnicki: I have no idea, but I am not lovin’ the sound of that.

I think what Dan’s trying to get at—

Dan Siegel: Well, you’re saying adaptive management and part of adaptive management means figuring out if things are working and if not, shift. You know, adjust. And I am just trying to build in here that we’re not focusing on single-family residences. That may be the absolute right approach, but let’s keep looking at whether things are working and be open to changing if they are not.

Jason Burke: I just want to mention that, as a part of the TMDL like you are mentioning, a lot of this data is derived from the TMDL and is a part of that kind of adaptive management process in the TMDL and there is a regional stormwater monitoring program and as a part of that, with the RCD, we are doing a lot of monitoring that is verifying a lot of

those assumptions about the treatment methods and the different land use assumptions that we are all kind of looking at in those graphs. So, I think that that process is already part of the TMDL Adaptive Management Process so there will be another round of data that will come out of that; that will look at re-evaluating all those assumptions in the modeling and what had been learned during that science to verify that is the case.

Jason Kuchnicki: And I think that we are still talking about enforcement and that TRPA has the ability to enforce, but they are going to implement enforcement in a more strategic manner.

Dan Siegel: The idea is to use adaptive management to make sure they are, in fact, using the most strategic manner. Right now, based upon the current state of understanding, this is the right approach. Adaptive management means as we learn and we hear that there's going to be a lot of learning, the model is based upon knowledge at a snapshot of time, and the TMDL is built around, as I just heard, learning whether or not the model needs to be adjusted and whether or not the information, ya know, we have new information and we need to adapt—adaptive management. I'm just saying let's have this be consistent with that. So, if you are learning as part of the TMDL process, "Oops, we overemphasized one thing or another." And here, for example, we are saying there is less of a focus on single-family residences, if it turns out through adaptive management TMDL process you learn, "Oops—maybe we should've had somewhat more"; I'm just saying this should be adjusted to. That's all I'm saying.

Shay Navarro: So, maybe I can add a sentence at the end that says, 'This also includes whether. . .

Shelly Aldean: I was just going to suggest rather than singling out single-family properties, if we said, 'update water quality policies and ordinances as needed through the Regional Plan Adaptive Management Process as it relates to all types of land uses.'

Shay Navarro: Shelly, can you repeat that.

Shelly Aldean: Sure. We just add to the first sentence under 8.3—'as it relates to all types of land uses.'

Adam Lewandowski: And would you like to expand that to say, 'Update water quality policies and ordinances as needed through the Regional Plan and TMDL Adaptive Management processes'—to get to some of the points that Jason mentioned about the ongoing TMDL process?

Clem Shute: There's an irony there.

Karin Staggs: I think it is important not to single out anyone specifically, especially the SFR. I think it is implicit in our other topics, for example #5—we will be targeting the load reduction plans and these other things which do have less of a focus already on SFR. So, I think it is implicit in these other tasks and that we shouldn't single out any particular land use. And the way Shelly put it I think is great.

Dan Siegel: It works for me.

Clem Shute: Do you want to add reference to TMDL? It used to be that that was forbidden for any of us to even mention.

(Many speakers speaking without microphones. Undecipherable.)

Shelly Aldean: So, 8.3 would read as amended, “Water quality policies and ordinances as needed through the Regional Plan and TMDL Adaptive Management Process as it relates to all types of land uses.” And the balance of that paragraph would remain unchanged.

Bob Twiss: What we were trying to get at a few minutes ago with Dan’s comment is that the theme over the last couple of meetings has been a kind of argument for the refocusing from single-family parcel stuff. “It’s expensive, it’s time consuming, there’s 48,000 of them”, and then this table is used repeatedly by everybody—the one that shows the roads and so on, and so, with the language you just proposed we are not singling out anyone of these. Anyone who looks at this table and uses it, which is to the advantage of many people, would say, ‘Well, let’s monitor roads, you know, and spend only a very tiny amount of time even looking at these single-family homes even though they cover a lot of the Basin in terms of acreage.’ So, I understand why you don’t want to single out, but you actually have been singling out over the last couple of meetings—a justification for why we really do need to shift to the area plans and the community-wide. I had a question as to whether the recent storm was even monitored to see whether new systems with complex infiltration and so on, in fact, delivered as expected, and I didn’t know whether there are people that go out on the ground after a big storm like that and check on it or not. So, adaptive management of that kind is what I think we were trying to get at, but a real look at single-family I think needs to be done if, in fact, we are using tables and charts such that have been presented today to de-emphasize it dramatically.

Karin Staggs: I think there is a hesitancy to point out the SFR—that we shouldn’t focus on it anymore because so many thousands of people have spent the money and implemented the BMPs on their property. We’d basically be telling them it was for naught; and I think that’s what a lot of the jurisdictions feel is that they don’t to just tell people, ‘Well, this was for naught—it’s a waste of time’. And with your second question, I went on the ground after the storm event and, for example, Logan Creek GID—it is a small GID tucked at the base of a hill. The precipitation event brought so much runoff from the upland forested area and completely wiped out the infrastructure; the water quality improvement project infrastructure—it just inundated it, and I think that happened on most of the Nevada side. Everything was completely filled up. But again, it was from a lot of the urban upland. I think it was between the 500-1,000 year event, so well beyond the capacity that anything was designed for. It is pretty spectacular what happened.

Jason Kuchnicki: I’d like to agree with Karin. I think Karin brought up a great point about de-emphasizing single-family residential and how that might affect public perception as well. To go back to my earlier point about enforcement on BMPs, I think we are not de-emphasizing single-family residential—I think it is just a different—there is a paradigm shift. And what I’m seeing is, instead of focusing on implementation of parcel based BMPs, we are

moving more towards this area-wide concept. And to go back to Russ's example about El Dorado County where they are not going to get a lot of load reductions. Does that mean that we shouldn't enforce on single-families or that they are not going to have an effect? They could if in fact they contributed to an in-lieu fee which then offset the cost of some of the County's costs for maintaining some of these stormwater treatment fees. I think that that is a win-win situation that I'm hoping we're going to see more of in the future. The homeowner's get their compliance—they get their certificate; the local jurisdictions—they get their TMDL credits out of it, it's easier for them to maintain, and they get some of their costs for maintaining their BMPs or their stormwater treatments offset. So, I am hesitant to say that word, 'de-emphasizing' single-family residential because I think it still plays—it could play a hugely important role.

Shay Navarro:

And I would just like to add that all properties still have an obligation to meet their BMP requirements, but there are different ways in which they can come into compliance such as the area-wide that Jason mentioned. When new construction and remodel projects come in, they still have to do their individual BMPs. What we are really talking about is more just the distribution—that the distribution of our staff resources is proportional to the environmental benefit from the effort. So, do we really want to focus a lot on single-family enforcement? We are doing that in a more targeted manner as I mentioned before—we are sending out to close 300 letters this season alone to single-family properties in strategic areas in Washoe County and the City of South Lake Tahoe. But I am uncomfortable with the word 'de-emphasize'. It is more, again, making sure our resources are used proportionally to the amount of environmental benefit from those areas.

Dan Siegel:

I would be fine with saying, 'Shift resources'. Whatever it is you just described about how there are fewer resources going to single-family. Use the right words and say, 'Should there be a movement of more resources to that due to what new information under adaptive management.' Under the current information that you have I think that your current plan seems to make sense. You're focusing your resources on where you will get the biggest bang for the buck. If three to four years from now, you are learning that, 'Oh, wait. There was much more of a problem here', then there should be a shift of your resources to address that. Basically, I think what Bob and I are saying is use adaptive management to change your management based upon your new information.

Shelly Aldean:

Another amendment?

"Update water quality policies and ordinances as needed through the Regional Plan and TMDL Adaptive Management Process as it relates to all types of land uses with respect to the allocation of resources."

Is that okay?

Russ Wigart:

Quick comment here. The local jurisdictions are taking on this assessment and finance strategy right now through a grant that is coming out through the EPA to look at just this—how to fund certain aspects of the program. We're going to continue to investigate that. We already put together a stormwater finance strategy which looked

at various taxes and assessments that we could put on to be able to generate enough revenue to implement—it's an MPDS program in general, but this would dovetail in line with residential BMPs and then with the TRPA and in-lieu but not doing BMPs and collecting fees and assessment instead. All those things are still on the table and still being investigated. Just so you know. And the stormwater that was generated from El Dorado County—we do primarily infiltration based projects and it was monitored; the Regional Stormwater Monitoring Program did a very good job monitoring all those storm events and it was pretty impressive what we had for this year's summer rains.

Adam Lewandowski: I was just reminded by our Lahontan representative here that the TRPA Regional Plan After-Management Process already incorporates the outputs from the TMDL Adaptive Management Process and it might be clearer just to remove that reference to TMDL so people don't get the two processes confused, so I'd like to withdraw my earlier suggestion to include TMDL.

Clem Shute: We're going to cut this short pretty soon so go ahead, but you have 13 seconds.

Jason Kuchnicki: Not to offend, but I'm not seeing the value in the wordsmithing there. I might recommend in addition to Adam's suggestion, how about at the end of that first sentence in 8.3, 'and allocate resources accordingly'. But then I have a couple of other comments and the one relates to 8.1. I just want to qualify in there. . .

Clem Shute: 8.3 – where would that go?

Jason Kuchnicki: At the very end of the sentence: '...and allocate resources accordingly.' In lieu of Shelly's. I'm not seeing the value of the addition about the land uses.

Shelly Aldean: Well, I think it's stating the obvious, but I think it further clarifies some of the concerns expressed by the members of the work group and that's why I suggested that language. It has no real substantive change to what will be done in reality; it is just added for clarity.

Jason Kuchnicki: Okay. In 8.1—you just might want to say, 'after verification protocols currently under development'. Or something like that. And then in the overview—second sentence—'responsibility for operations and maintenance of BMPs resides with property owners.' I wouldn't mind seeing in there—I think there is, again, that shared responsibility with the local jurisdictions. It is just not the property owners if they are going to be getting credit for it then they are going to share some of that burden. So, yes, it will be the property owners that will be performing the maintenance on their parcels but I think the local jurisdictions have a responsibility to facilitate that. And in the case of the in-lieu fees, they actually are going to be carrying out that burden. That's in the overview in the second sentence.

Shelly Aldean: (the following was said off-mic – difficult to decipher further)...and I think it is important to point out that 8.2 has been modified from the packet to only include commercial/multi-family.

Clem Shute: I think we are ready for a motion.

Karin Staggs: Washoe County has concerns with the verification of the private parcel BMP maintenance and they feel that the verification and maintenance must continue to reside with the TRPA, and at this time, the Lake Clarity Crediting Program is being revised to add a section on private parcel BMP maintenance and verification, and the jurisdictions haven't seen that yet so we don't know how that's going to affect what we are proposing or what we have already proposed in our stormwater load reduction plans. So, there are definitely concerns with saying that we will update this according to the Lake Clarity Crediting Program when we haven't seen the Lake Clarity Crediting Program revisions yet.

Clem Shute: Wouldn't we want to have our BMP Handbook aligned with the Lake Clarity Crediting Program even if we all hated the Lake Clarity Crediting Program? What would be the point of having them be in conflict?

Karin Staggs: I don't know. At this point should I read the letter from Kris? The paragraph?

Shay Navarro: I would just like to say that the Lake Clarity Crediting Program protocols are being developed by NDP and presumably Lahontan so that is a separate process than here. And all that this action says is once that process is complete, and I am assuming that process will engage the local jurisdictions to really hammer out the details, but once that process is complete, if there are inconsistencies with our BMP Handbook because we do have some templates, some protocols in there right now, and if they are becoming consistent then we just want to update them accordingly. But the merits of what the Lake Clarity Crediting Program will produce is not for discussion here. That is being developed under a separate process.

Russ Wigart: Is the verification program in alignment with these various rapid assessment methods being done then or is it one in the same?

Shay Navarro: Are you asking about the Lake Clarity verification?

Russ Wigart: No. The verification of BMPs.

Shay Navarro: I'm not sure what—Jason, maybe you...

Jason Kuchnicki: I could just give everybody a quick update of where we are at with that. Actually, the ball is in Shay's court right now to provide some comments. She has said that she'll get comments to me very soon and then we are going to take it to the EIP Parcel Specific Working Group. We are trying to hit the mark and get everything pretty dialed in with how the mechanics can work before we go and solicit stakeholder feedback on that. That is kind of where we're at, but yes, we want it to be—it will be much more simple than either the road RAM or the BMP RAM. I can assure you of that.

Russ Wigart: Currently being developed?

Jason Kuchnicki: Currently being developed, yes.

Clem Shute: With which we are not, TRPA is not preparing and not responsible for; we would just be aligning our procedures with whatever comes out of it.

Shay Navarro: That is correct.

Clem Shute: That is what is intended here. So, the motion that would support what we've talked about in the staff recommendation would be to add at the end of that, 'Lake Clarity Crediting Program currently under development.' That's where somebody suggested adding that language, right?

Shay Navarro: Correct.

Clem Shute: And then in #2, instead of saying, 'approval for all permitted projects and not just BMP', it would say, 'commercial and multi-family'. Is that what we talked about?

Shay Navarro: Correct.

Clem Shute: And then in #3, we have two proposals. One is after, 'management process as it relates to all types of land uses with respect to the allocation of resources'—there is a concern about the all types of land uses and so the language that has been suggested as an alternate would go at the end and just say, '...and allocate resources accordingly.' I think that adding the language but adding it as it relates to all types of land uses doesn't hurt anything, it's just a description to make it simple. Let's have the motion incorporate Shelly's language as it relates to all types of land uses and if that doesn't succeed we can go to the alternate language. So, I propose that as a motion.

Shelly Aldean: One additional change under 8.2. The second sentence should read, 'these plans provide documentation that facilitates long term maintenance and they should be provided for all commercial and multi-family projects.'

Clem Shute: Okay.

Shay Navarro: Got that.

Clem Shute: Any other suggestions, comments, corrections? So, that is the motion in front of us. All in favor say 'Aye'.

(Passes unanimously.)

Clem Shute: Opposed? Passes unanimously.

Let's go to Item #9.

Shay Navarro: We are 10 minutes over so this is the last discussion topic and I appreciate everyone's patience. Discussion Item #9 addresses additional topics of interest including marina

BMPs, connectivity, BMPs on vacant lots and parcels with subsurface contamination. These were the additional topics identified by the Working Group. Our Overview in the Action Plan discusses each of these topics. With marinas, we talk about how marinas are regulated by both of the states through their NPDS programs and we did some research and found that four of the 14 marinas in Lake Tahoe have a BMP certificate on record, but there is a concern that some of them have undergone redevelopment-type projects where they may be eligible for a certificate. And that is one of our information system issues. We do believe that moving forward, any type of new permitted project, redevelopment or new construction, that certificates that are achieved through that process now are actually incorporated successfully into the database. But we do have an action related to that.

Hydrologic connectivity: The Working Group just wanted more information about what this means and it refers to the degree to which stormwater runoff generated on a parcel travels directly into Lake Tahoe. Stormwater that drains to a pipe or a tributary flowing to the lake is considered directly connected, where runoff that either stays onsite or flows to an area where it is infiltrated into the ground before it reaches Lake Tahoe is considered disconnected. Not all runoff poses the same risk to Lake Tahoe's clarity and certain locations are higher priorities because of their hydrologic connectivity.

BMPs on vacant lots: The TMDL evaluated pollutant potential from forested lands and various ranges of vegetative cover on undeveloped urban lands and determined that they generate the lowest pollutant potential and there is no data supporting the notion that vacant urban lots contribute any more pollutants than undeveloped forested lands.

Subsurface contamination: This was something that we talked about a little bit. We touched on it with enforcement. There is a wide variety of existing subsurface soils and groundwater contamination sites and active remediation sites in the urbanized areas of Lake Tahoe and in these areas, infiltration BMPs that are required at a parcel scale are potentially not the most appropriate because they can expand the extent by which this pollution plume covers. I would think that this would be considered an additional constraint to infiltration and our recommended actions include for marinas: Coordinate with Lahontan and NDEP to determine which marinas are in compliance with the NPDS requirements and are eligible for a BMP certificate. And then consider targeting non-compliant marinas for accelerated BMP implementation in coordination with Lahontan and NDEP. Are there certain marinas that are a priority for enforcement? I know when we looked at the City's baseline loading map that the Tahoe Keys area had a higher loading area, but was not a registered catchment. We do have funding for enforcement so this could be something that we work with Lahontan and the City if those are areas that we want to target.

Lastly, 9.3 just says: "focus resources and staff time on strategies that achieve the greatest pollutant load reduction including stormwater management and high loading and connected areas identified by TMDL load reduction plans which minimizing risk of subsurface contamination to groundwater drinking sources."

So, we are really looking at the load reduction plans to help identify where these constrained areas are—whether it is subsurface contamination or whether there are areas where they want to do area-wide treatment. And we coordinate with the local jurisdictions when we do work on enforcement to target areas. And the type of enforcement depends on what we hear from the local jurisdictions. So, as I said before, in Washoe County they want individual parcel specific BMPs because that is what they are looking at getting their load reductions from, whereas in the City, because of the subsurface contamination issues and just economies of scale and a variety of other reasons, they are looking more at some area-wide treatment opportunities. And we would partner with the local jurisdiction by either sending letters to property owners saying, ‘participate in this area-wide treatment’ or send letters saying, ‘do your individual private parcel BMPs’; and it is really through their load reduction plans that they would identify where these different strategies would be most appropriate.

Shelly Aldean: 9.2—can we just say, ‘consider focusing on non-compliant marinas’, instead of ‘targeting’? These marinas—we have to remember that they are our partners in connection with AIS and our subsidy to some of those marinas has dramatically decreased. I don’t think we need to needlessly antagonize them by “targeting” them.

Shay Navarro: We can make that change.

Shelly Aldean: Yes.

Shannon Eckmeyer: I guess I had a question on 9.2—what “consider” means. If we approve this action is TRPA going to move forward with this? I guess I’m confused by what “consider” actually means.

Shay Navarro: We do have funding on both the Nevada side and the California side for focusing on priority properties to accelerate BMP implementation. We work with the local jurisdictions to identify the areas in which they want us to focus and through that process we would work with the local jurisdictions and Lahontan and NDEP to determine which if any of the marinas are properties that we do want to use those enforcement dollars on.

Shannon Eckmeyer: Okay.

Shelly Aldean: Does that answer your question, Shannon?

Shannon Eckmeyer: Yeah, I’m just thinking if all of the marinas are taken off and decided not to be part of the focus, if it would be worth maybe trying to group this in with shorezone efforts that are already happening with the Working Group or if we want to leave this action item with this committee.

Shay Navarro: I’m comfortable with leaving it as it is and the reason why we have Lahontan and NDEP in here is because they already have NPDS permits for all of the marinas and there are requirements as part of those NPDS permits that the marinas have to meet specifically for water quality. And so, the first action is really looking at which one of these marinas

is meeting those NPDS requirements and can actually get a certificate. We just haven't, for whatever reason, issued one, or are there some that aren't meeting their NPDS requirements and perhaps need additional focus.

Dan Siegel: I have a question and I guess an underlying potential concern about the vacant lots. The second sentence that there is, "no data supporting the notion that vacant urban lots contribute anymore pollutants than undeveloped forest lands." Is that—we don't know in other words, or have lots been, have vacant lots been looked at to see whether they have unauthorized roads, cuts, or other disturbances and it was determined that even though there are disturbances, that's not a problem? So is it just that these vacant lots, if they're undisturbed, shouldn't be a problem or is it that we've looked at them, they're disturbed, but they are of such high capability that the disturbances don't matter? Or is it that there are almost no vacant lots that have disturbances so it is not a problem? The "no data" suggests that there is just no information rather than, 'we've looked at this and it's not a problem.'

Shay Navarro: I don't think there's specific data on vacant lots per se, but when we put together the framework table and we had the event mean the average runoff concentrations from the different land uses, that table—that information is from the Lake Tahoe TMDL Technical Report that was put together in June of 2010, and there's a variety of vegetated cover, for lack of a better word, land uses or categories that were assessed as part of that. And so, vacant lands were looked at similarly to these vegetated areas. And I think the watersheds were sort of broken down based on what percent of the watershed is made up of that category. If a vacant lot was vegetated and it was included in the vegetated section, but if it had a road on it then presumably that road was looked at as part of the road land use. But there is no specific column for vacant lots. There is no data specific to vacant lots.

Dan Siegel: So some vacant lots may have roads and may be not be BMP'd, and may be generating pollutants. . .

Shay Navarro: A vacant lot with a road is considered developed.

Dan Siegel: Even if it's unauthorized? Even if it is unpermitted? In other words, if someone's driving over the lot right next door to their house because it is a more convenient place to get to some other, to the road or whatever, then it is an unauthorized use of a vacant lot, you know, that's a disturbed lot, has that been looked at at all? It's not uncommon for people to, you know, for people, for example, that have a residence to bleed over to the next door vacant lot and use that lot for storage, firewood or whatever. It may not be a problem, I don't know, but no data is different than, 'we've looked at it and it is not a problem'.

Shelly Aldean: Jason—did you want to respond?

Jason Kuchnicki: Just a couple points on that. I guess, just what you said, I would have a question if it is in the grand scheme of things, a big problem. My feeling is it's probably not, however, I would say that from the TMDL perspective, the way that the land uses were handled

with that was if there was a road—if we had an impervious coverage layer and so if there was impervious coverage that was identified on that layer then it would be assigned to a different land use. That said, we didn't get down to the level of, 'well, there's this many vacant lots' and, you know, quite what you're asking for.

I would also offer that state lands and I think CTC and I believe the Forest Service have urban lot management programs where they are going out and they're tending to these urban lots. I used to work for the Forest Service as a survey technician—we're going out and we're marking the boundary between the developed and the undeveloped area, you know, we're walking the line. So, I think that there is no data like Shay is saying, but there is a process by which there are inspections; it's informal, and these things are identified and I know they get reported back to the agencies so that they can go out and take care of it if it is identified as an issue. So, it might not be as satisfactory as we would like it to be but at least something is being done to address it if it is a problem.

Jason Burke: I don't think it's necessarily a systematic problem. It's kind of an odd and unique situation, but I know from the City's perspective, don't tell Caltrans, but sometimes if people are unauthorized using roads then a solution we use is to put large boulders and then that eliminates people's ability to use those roads.

Shay Navarro: And just to reiterate on Jason's point, parking barriers are a standard BMP that we require on developed properties so adjacent to driveways and parking lots, we require either large boulders or permanent vegetation like trees or bollards or other types of parking barriers to prevent vehicle traffic from encroaching on undisturbed areas. And then with Jason's point about the Forest Service, we just actually had a property that I worked with yesterday. They definitely follow-up and survey their properties and send letters to the property owners to make sure there is no disturbance on their forested lots. In this case, the property owner had, by accident, encroached onto the Forest Service property to install their BMP and they actually had to relocate that over to remove their infiltration system off of the Forest Service land.

Karin Staggs: And then just real quick as a final to that—on the Nevada side, so many parcels have been purchased in the subdivisions to account for infiltration so there aren't homes built on these parcels so it is house-Forest Service parcel-house-NDSL parcel. And that's supposed to help absorb a lot of the infiltration. And also, they have determined that the naturally occurring soils around here are very low in FSP so that's part of the reason why there's less emphasis on them.

Shelly Aldean: Does that satisfy you, Dan?

John Marshall: Is there any data that shows they are a problem?

Dan Siegel: No, there's no data. I mean just, anecdotally, it happens. I mean, I've heard it through the Conservancy, I've heard similar kinds of things that we hear in here that the owners of the conserved parcels, the public entities that are managing them, have sometimes had problems with private property owners coming on and disturbing the parcels. And I don't know to what extent that is happening on private parcels that aren't built on as

well that maybe aren't being managed and it may not be a problem. I mean, it's really in my mind, it's a question mark and it may be a nothing and it may be a very minor problem and the fact that the Forest Service and the conservancies try to maintain their properties, should reduce the problem or may be a significant problem. I just don't know.

Woody Loftis: I'm just confused. If we are talking about BMPs then we're talking about putting in some sort of system to accommodate legitimate use. But if we are talking about an illegal use next door, it's like we don't want to BMP the illegal use; the point is there's something unpermitted or unallowed going on in that instead of BMPing it and allowing it to continue.

Bob Twiss: Just a quick question and things are a little bit confusing because both the table which we've referred to many times and the chart that we've referred to many times—those are concentrations in milligrams per liter of what's estimated to come off during the TMDL planning process. They don't refer to these particular tables, these particular tables don't refer to how many of these there are and what they're conditions might be or something like that. In other words, this is the concentration of whatever runoff might come off and if you have thousands of vacant lots you would multiply this by (that) and so on. And it's that accounting for the acreage and extent and location of what's in these tables that's sort of missing.

And I'm a little confused if there's a vacant lot. Roughly less than half of our vacant lots are on uphill sides as opposed to downhill and those uphill sides have cut slopes even though the lot is vacant and I heard that that lot as a whole might have been counted as developed or is it still a vacant lot and the disturbance counted for in the road calculations? I'm not sure we want to settle today, but that's the sort of thing that is left hanging in my mind.

Jason Burke: I think your second point about the road cuts, I think that ultimately, like under the TMDL, that becomes a road shoulder condition which is really kind of attributed to the roadway and the right of way, and that's kind of in the pollutant loading in there. And then I think to your first point about your concern with the concentrations, I think in the second handout from the TMDL, there was a chart that included scaling it up by total land use and again, the single-family we are not de-emphasizing and we're just re-prioritizing. You know, when you do scale it up based on land use, it does come up to 10%, so it is clearly still important—I just don't know that it's quite the same priority. I don't know that we are de-emphasizing it.

Shelly Aldean: Can I just make a recommendation? Under Page 13, it says, "there is no formal data." How about that? I mean, there is anecdotal evidence but there is no formal data. And that way we are talking about the fact that it really hasn't been necessarily quantified, but as far as we can tell, it is not a significant problem.

Jason Burke: Can I make just one other suggested clarification under 'existing efforts': the second one on the City and the subsurface contamination? I'd also encourage inclusion of the TRPA's existing source water protection chapter of the water quality code that that

definitely supports existing efforts to address subsurface contamination. Maybe just second sentence under 'existing efforts'—just as a second sentence to reference the existing source water protection code. Sorry, I don't have it on hand but I think it is 60.3 or 60.9? (Refers to copy) 60.3.

Shelly Aldean: Any other comments or suggested changes to any of the language under this item which is Item #9 in our list of discussion topics?

Okay, I see none. Is there a motion to incorporate the changes that have been discussed on the record?

(Unidentified speaker of mic) So moved.

Shelly Aldean: Okay, we have a motion. All those in favor?

(Passed unanimously.)

Shelly Aldean: Any opposed?

NONE.

Shelly Aldean: Motion carries. And that brings us to the end of our meeting. I will open this up for one last public comment period. Are there any additional public comments? Seeing none we will close public comment. Is there a motion to adjourn?

Alright—all those in favor?

(Passes unanimously.)

Shelly Aldean: Any opposed? Motion carries. Thanks everyone.

MEETING ADJOURNED.