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MEMORANDUM

Date: July 1, 2014
To: BMP Compliance Working Group
From: TRPA Staff and the EIP Parcel Specific Working Group
Subject: Discussion Topic Info Sheets and Priority Sequencing of Topics.

Requested Action:

Review the enclosed discussion topic info sheets for discussion, prioritization, referral of topics to other committees as needed, and possible direction in anticipation of final recommendations on August 20, 2014. Discussion topics include:

1. Real Estate disclosure process
2. Require BMPs at the point-of-sale
3. Use of forfeited securities
4. Enforcement options, such as recording a notice of noncompliance to a property
5. Prioritize BMP implementation in coordination with Load Reduction Plans
6. Area-wide BMPs and in-lieu fees
7. Additional incentives/subsidies
8. BMP maintenance and adaptive management
9. Additional topics of interest

Summary:

At their annual priority setting workshop in February 2013, the TRPA Governing Board directed staff to create a subcommittee of the TRPA Governing Board, along with interested parties, to explore options related to BMP compliance. The Board reinforced the importance of this topic at their 2014 priority setting meeting and directed the overall goal for this effort to be broadly focused on guiding TRPA's efforts and limited resources to the most effective stormwater management strategies.

The Regional Plan Implementation Committee (RPIC) endorsed formation of the BMP Compliance Working Group, which is made up of state and local government representatives, environmental and business community representatives as well as a technical expert. At their first meeting on March 12, 2014, the working group endorsed an overall goal to focus their efforts, and a list of objectives and feasibility criteria for their recommendations to adhere to. The working group also identified topics for discussion and requested additional data and analysis to help inform their recommendations on changes to TRPA policy, code or stormwater program implementation. See Attachment A for the goal, objectives, feasibility criteria, discussion topics, and data needs identified by the working group.

The working group focused on advancing recommendations that guide TRPA's efforts and limited resources to the most effective stormwater management strategies in a manner that is consistent with the Regional Plan, local Area Plans, and TMDL load reduction plans, as well as the identified objectives and feasibility criteria.

TRPA staff, in coordination with the EIP Parcel-Specific Working Group (consisting of stormwater project implementers and technical staff), assembled relevant background data and analyzed options to address the topics. The discussion topic info sheets provided in this packet present this information along with joint recommendations from TRPA staff and the EIP Parcel Specific Working Group. Generally, recommendations fall into three categories, which are based on the most current water quality science used to develop the TMDL and avoid actions that require new sources of funding to implement:

1. Focus efforts on most effective pollutant load reduction strategies
TRPA has limited funding and staff resources. Recommendations intend to focus efforts where dedicated funding exists and where the greatest pollutant load reductions are achieved. This includes focusing on environmental redevelopment and area-wide BMPs.
2. Coordinate targeted BMP retrofit enforcement
TRPA pursues targeted BMP retrofit enforcement by priority when funds are available. Currently TRPA prioritizes enforcement efforts based on proximity to water quality improvement projects and relative contribution to pollutant loading. Recommendations encourage better aligning TRPA enforcement priorities with local jurisdiction load reduction plans and Area Plans in order to support the TMDL and the 2012 Regional Plan.
3. Improve information systems
Various agencies and jurisdictions that provide technical assistance or issue permits under an MOU, collect BMP data and provide it to TRPA in different timeframes and formats. Internally, TRPA maintains multiple databases that track BMP information which can affect the reliability of information queried. Various recommendations address streamlining TRPA processes to improve effectiveness and quality of data collected consistent with TRPA's Strategic Plan.

At the July 8, 2014 BMP Compliance Working Group meeting, TRPA staff will request the working group rank discussion topics in order of priority. Given the number of topics to cover and the technical or legal nature of some discussion topics, TRPA staff recommends the working group consider referring certain topics to the EIP Parcel-Specific Working Group or the TRPA Legal Committee for development of final recommendations by the August 20, 2014 meeting. Final recommendations will be advanced to Advisory Planning Commission for review and consideration prior to review and consideration by the Regional Plan Implementation Committee (RPIC) and the TRPA Governing Board.

Contact Information: If you have any questions, please contact Shay Navarro, Stormwater Program Manager, at 775.589.5282 or snavarro@trpa.org; or Adam Lewandowski, Long Range Planning Manager at 775.589.5233 or alewandowski@trpa.org.

Attachment A

Outcomes from TRPA BMP Compliance Options Working Group Meeting #1

This memo summarizes the Goal, Objectives, Feasibility Criteria, Discussion Topics and Data Needs advanced by the BMP Compliance Working Group from their first meeting on March 12, 2014.

Goal:

Develop feasible and effective policies and/or other recommendations to improve BMP implementation consistent with the Regional Plan.

Objectives:

- I. Support Regional Plan goals and policies including protecting and enhancing water quality and coordinating with the Lake Tahoe TMDL Programs.
- II. Support local government Area Plan and Load reduction Plans, where applicable.
- III. Simplify/streamline operational processes.
- IV. Focus on options related to BMP compliance, which include in lieu fees, etc.
- V. Meet feasibility criteria outlined in Attachment A, consider funding constraints for the Lake Tahoe BMP Retrofit Program and pursue recommendations that offer the “biggest bang for the buck” in terms of pollutant load reductions.

Feasibility Criteria:

1. Effectiveness: The relative environmental benefit of the regulatory requirement over time.
2. Cost: The relative cost to comply with the regulatory requirement to project applicants, contractors, property owners, or public agencies including TRPA, local jurisdictions and conservation districts. This also includes the cost to monitor and enforce compliance with the requirement.
3. Public Impact: The relative impact of the requirement on the public. This criteria is based on factors other than cost that could place a burden on project applicants, contractors, property owners, or public agencies. Factors include potential delays in project implementation, reductions in the workforce available to implement projects in compliance with requirements, complicated procedural requirements, or other non-monetary impacts to project proponents or other members of the public.
4. Technical Feasibility: The level of technical difficulty in complying with and enforcing compliance with the requirement. Technical feasibility includes the availability of technologies or materials necessary to comply with the requirement, the feasibility of monitoring compliance with the measure, whether compliance can be objectively measured, and whether monitoring and enforcement would require specialized skills or technologies.
5. Effects on Other Resources: The level to which the requirement would have positive or negative impacts on other resource areas. Requirements that would have secondary benefits to other resource areas, such as vegetation preservation or scenic quality, would rank higher. Requirements that have unintended impacts to other resource areas would rank lower.

Discussion Topics:

1. Maintain, modify or enhance the TRPA Real Estate Disclosure process or alternative to improve BMP implementation and maintenance following real estate transactions.
2. Consider requiring BMP installation on properties at the point-of-sale or post a financial guarantee at the point-of-sale equal to the cost of implementing BMPs or alternatives.

3. Revise BMP Compliance procedures for permitted projects to provide flexibility in the use of forfeited securities and/or in imposing penalties.
4. Consider enforcement options, such as recording a notice of noncompliance to a property deed under certain circumstances.
5. Target and prioritize accelerated BMP implementation in coordination with local jurisdiction Load Reduction Plans.
6. Facilitate and promote area-wide BMPs and in-lieu fees.
7. Seek funding for additional incentives to encourage BMP compliance such as a robust subsidy program done on a reimbursement basis.
8. BMP Maintenance and Adaptive Management
9. Additional topics of interest that include marina BMPs, and BMPs on vacant lots.
10. Parking Lot for topics requiring future Governing Board prioritization or for EIP Parcel Specific BMP Water Quality Working Group review and recommendation.

Data Needs:

- More information on priorities in load reduction plans
- List of targeted enforcement areas
- Effect of federal funding for private BMPs on EIP Cost Share
- Info on point of sale requirements in other jurisdictions
- Effectiveness of different enforcement approaches/strategies
- Marina BMP requirements and Compliance