

**AGENDA: Steering Committee (#30) [v2]**

**Dec. 20, 2017, 8:30-12:30**  
at TRPA, Stateline, Nevada



8:30	<b>Review / Revise Agenda (00)</b>
8:40	<b>EIS Update – Alternatives and Baseline</b>
9:00	<p><b>Mitigation and Future Fees</b></p> <p>Key Questions</p> <ul style="list-style-type: none"> <li>€ Given the goals of the Shoreline Plan, what is the best way to approach mitigation and fees to address impact? What principles to apply in designing the program? What are we trying to accomplish through?</li> <li>€ What information do we need to support mitigation decisions in the future? What other next steps?</li> </ul> <p>Categories</p> <ul style="list-style-type: none"> <li>€ Mitigation Measures and Potential Fees to Address Impacts</li> <li>€ Fees for Administration and Rent (applications, rent, etc.)</li> </ul> <p>Background Information</p> <ul style="list-style-type: none"> <li>€ Mitigation Table via Ascent and Joint Fact Finding</li> <li>€ 2008 Fee Proposal</li> <li>€ Current TRPA and Other Agency Fees for Administration and Rent</li> </ul> <p>Related Issues flagged in Previous Steering Committee Discussions</p> <ul style="list-style-type: none"> <li>€ Blue Boating Program</li> <li>€ Fees associated with piers for recreation and lakeward of high water as deterrent for making improvements</li> <li>€ Enforcement fees that TRPA collected during program implementation</li> </ul>
10:15	<b>Break</b>
	<b>Continue Fees or Move to Remaining Topics (see below)</b>
	<b>Lunch</b>
	<p><b>Review Draft Meeting Notes</b></p> <ul style="list-style-type: none"> <li>€ SC27 Notes, Final Questions</li> <li>€ SC29 Draft Notes</li> </ul>
12:20	<b>Updates and Next Steps, Future Meetings</b>

## REMAINING TOPICS

**Access in California Public Trust Easement MOU, Draft Ordinance, and Design Exceptions**

**Non-Motorized Boating Education & Enforcement**

**Vertical Access**

**Talking Points to Explain Buoy Cap and Moorings**

**Environmental Improvement** as part of Permitting Priority

**Streamline / Coordinated Permitting**

- **Applicants Participating by Invitation in Shoreline Review Committee**
- **Permit Information:** TRPA will develop a webpage that agencies can direct applicants to with Lake Tahoe Shoreline Permitting Information (descriptions of all permitting agencies and links to their applications, MOUs, timelines for permitting, etc.)
- **Multi-Agency Coordination:** TRPA will continue to facilitate the monthly Shoreline Review Committee for permitting agencies to discuss/coordinate permitting
- **Buoy Tagging:** TRPA will be the only agency to issue buoy RFID tags. A coordinated database with TRPA permit and CSLC & NDSL lease information will be developed that all agencies will have access to. NDSL and CSLC will update lease information through LTInfo.

**Buoy Enforcement (Tracking, Coordination, and other Implementation Issues)**

**Administration and Implementation**

**Construction Access Issues** ([January 2018: TLOA will convene meeting to discuss](#))



## Meeting Materials: Shoreline Program Fees

### Fees

December 12, 2017

#### Introduction

Understanding the current permitting framework and fee collection system as well as the 2008 program is helpful when contemplating fees for an environmental improvement program. Shorezone permitting fees are collected from TRPA, the Nevada Division of State Lands (NDSL), California State Lands Commission (CDSL), The U.S. Army Corps of Engineers (ACOE), The CA Water Quality Control Board (Lahontan), CA Fish and Wildlife (CFW) and Nevada Division of Environmental Protection (NDEP), to permit buoys, piers, dredging and other activities that involve lakebed disturbance.

#### Current TRPA Program

TRPA Shorezone Partial Permitting: Under the current partial permitting program, TRPA is permitting certain non-boating facility projects and the maintenance, repair, reconstruction, modification, and expansion of legally existing boating structures. The fees collected are used for administration of the program, including scenic review. The base fee for processing a shorezone permit is \$500-\$5000 (See Attachment A).

AIS Inspection: TRPA continues to administer and implement the AIS inspection program (boat inspections) in partnership with the Tahoe Resource Conservation District. The program is funded by inspection fees and funds provided by the states of Nevada and California and the USFWS. These dollars are used for administration of the prevention program that includes inspections and decontaminations, education, and outreach. Inspection fees range from \$33 to \$121 depending on the size of the watercraft, which allows for as many inspections as needed for the calendar year. Decontaminations have a \$35 per incident and "Tahoe Only" boats pay an annual fee of \$30.

2008 Fee Program: Under the 2008 Shorezone Program, permitting fees included a one-time application fee for the buoy program and an annual mooring fee. The one-time fees were used for program implementation and annual fees covered enforcement of the buoy program (50%) as well as a shorezone monitoring program (30%) and scenic mitigation fees to fund scenic shoreland improvements on public lands (20%). For new or expanded piers, a public access mitigation fee was required for private piers to fund recreational access improvements.

## **2008 TRPA Shorezone Program**

2008-2010 Blue Boating Program: Following adoption of the 2008 shoreline plan and EIS, TRPA implemented a Blue Boating program to address the environmental impacts of boating. The Blue Boating program was designed to mitigate water quality, air quality, and noise impacts to Lake Tahoe by encouraging environmentally conscious boating practices.

The Program required all motorized watercraft to be inspected and certified for compliance with established TRPA noise and emission standards, bilge practices, and sewage management guidelines, and that owners pay a required annual fee for a Blue Boating sticker. Data collected from the Program was used to develop estimates for annual engine and fuel usage and their associated emissions levels. The program included an outreach and public education campaign to inform boat users of the environmental benefits to Lake Tahoe from clean boating practices. The Blue Boating Program also established a monitoring program to collect annual data on water quality and noise levels associated with motorized watercraft, and outlined a range of mitigation measures that TRPA was prepared to implement if, and when new structures were built or if increases in boating occurred and demonstrated an increase in pollutants.

The Blue Boating fee was essentially incorporated into a single watercraft inspection fee that covered the costs of both the AIS Inspection and Blue Boating Program and Mitigation. The Blue Boating fees were adopted in March 2010 and were based on the horsepower of the engine, ranging from \$10-\$50. The Blue Boating Program was discontinued in September 2010 when the Shorezone EIS was vacated by the Ninth Circuit Court.

## **Nevada State Lands Fees (NDSL)**

NDSL requires a permit for piers and related facilities, for the use of boat hoists, ramps, slips, decks, mooring buoys and similar devices. The application fees range from \$50-\$200 for most uses and \$10 for dredging. The annual rent fee for piers ranges from \$50-\$125/year. The annual rent for mooring buoys ranges from \$30-\$100/year.

## **California State Lands (CSLC)**

CSLC requires an application processing fee for its leases. The fee varies based on the level of complexity in processing. The minimum for permitting a new buoy or pier is \$1,500. Fees for permitting marinas and buoy fields typically range between \$3,500 and \$10,000. An annual rental fee is based on the square footage of structure that is located lakeward of high water and is currently \$0.79/square foot. Annual buoy rent is \$377 per buoy.

### **Army Corps of Engineers (ACOE)**

Fees are required for permits under section 404 of the Clean Water Act, section 103 of the Marine Protection, Research and Sanctuaries Act, and sections 9 and 10 of the Rivers and Harbors Act of 1899. A maximum permitting fee of \$100.00 is charged for commercial or industrial projects and \$10.00 fee for projects for private personal use.

### **Lahontan Regional Water Quality Control Board (Lahontan)**

Lahontan requires compliance of Section 401 of the Clean Water Act for all projects that result in lakebed disturbance in California. Permitting fees for Water Quality Certification of dredging projects are based on the amount of soil disturbed at \$13,268 per acre. There is no application charge for ecological enhancement projects.

### **Nevada Department of Environmental Protection (NDEP)**

NDEP issues temporary working in waters permits for activities related to pier construction, marina dredging and other projects such as water intake line replacement or boat ramp construction. These permits require a \$250 application fee.

### **Boat Launch Fees**

Per TRPA Code of Ordinances, all boats at Lake Tahoe must be launched from a boat ramp. Once launched they either return the same day, or are moored at a marina or another mooring (e.g. buoy, boathouse, slip) for private or commercial use for the season. Launch fees are collected at both public and private boat launch facilities by the agencies or operators. Public launch ramps are located at Sand Harbor and Cave Rock (NV State Parks), El Dorado Beach (City of South Lake Tahoe), Lake Forest (Tahoe City PUD), Coon Street and National Avenue in Kings Beach (NTPUD), and Ski Beach (IVGID). Privately operated launch ramps are located at North Tahoe Marina, Sierra Boat Company, Tahoe City Marina, Sunnyside Marina, Homewood Marina, Obexer's Marina, Meek's Bay Marina, Tahoe Keys Marina, and Lakeside Marina. Fees collected at boat ramps are collected by the ramp operators or agencies and generally used for administrative purposes. Ramp fees generally range from \$10-\$75, based on the type of launch (ramp, travel-lift, forklift) and size of the boat.

## Attachment A-TRPA Fees-Current and 2008 Program

### Current TRPA Fees

SCHEDULE "G" – SHOREZONE, PRIMARY USES (§81.4, TRPA CODE)	Fee Category	Base Fee	Shoreland Scenic Review Fee	I.T. Surcharge
		NEW ACTIVITIES OR CONSTRUCTION (Including tear-down, replacement, or modifications affecting 50-percent or more of an existing structure/facility)		
	54. Beach Recreation (Dispersed), Water Oriented Recreational (Dispersed) Uses, Scientific Study Uses	\$500 min. fee, deposit account	\$400	\$88
	55. Commercial Boating, Construction Equipment Operation, Construction Equipment Storage, Safety and Navigation, Salvage Operations, Water Borne Transit, Water Oriented Outdoor Recreation Concessions, Environmental Improvement, Water Supply (Intake Line), Water-Oriented Public Service, Water-Oriented Scientific Study, Charter Boat, Water Taxi	\$3,500 min. fee, deposit account	\$400	\$88
	56. Boat Launching Facilities, Marinas, Tour Boat Operation, Beach Recreation (Intensive)	\$5,000 min. fee, deposit account	\$400	\$88
	ADDITIONS AND OTHER MODIFICATIONS TO EXISTING STRUCTURES, FACILITIES, OR ACTIVITIES			
	57. Beach Recreation, Water Oriented Recreational (Dispersed) Uses, Scientific Study Uses	\$400 min. fee, deposit account	\$400	\$88
	58. Commercial Boating, Construction Equipment Operation, Construction Equipment Storage, Safety and Navigation, Salvage Operations, Water Borne Transit, Water Oriented Outdoor Recreation Concessions, Environmental Improvement, Water Supply (Intake Line), Water-Oriented Public Service, Water-Oriented Scientific Study, Charter Boat, Water Taxi	\$2,800 min. fee, deposit account	\$400	\$88
	59. Boat Launching Facilities, Marinas, Tour Boat Operation, Beach Recreation (Intensive)	\$4,000 min. fee, deposit account	\$400	\$88
	OTHER			
	60. Other	\$1,500 min. fee, deposit account	\$400	\$88

SCHEDULE "H" – SHOREZONE, ACCESSORY USES (§81.3, TRPA CODE)	Fee Category	Base Fee	Shoreland Scenic Review Fee	I.T. Surcharge
		NEW ACTIVITIES OR CONSTRUCTION (Including tear-down, replacement, or modifications affecting 50-percent or more of an existing structure/facility)		
	61. Fences (below high waterline), Scientific Research Structures, Preliminary Pier Application <sup>(1)</sup> (Per Subsection 82.4, TRPA Code)	\$600 min. fee, deposit account	\$400	\$88
	62. A. Buoys, Floating Platforms	\$500 per Buoy or Floating Platform (for first 3) plus \$250 per additional Buoy or Floating Platform	\$400 (3 or fewer buoys are exempt)	\$88
	62. B. Recognition of Existing Buoys	\$45	N/A	\$5
	63. Piers, Water Intake Lines	\$5,000 min. fee, deposit account	\$400	\$88
	64. Boat Ramps, Breakwaters or Jetties, Shoreline Protective Structures	\$5,000 min. fee, deposit account	\$400	\$88
	ADDITIONS AND OTHER MODIFICATIONS TO EXISTING STRUCTURES, FACILITIES, OR ACTIVITIES			
	65. Fences (below high waterline), Scientific Research Structures	\$480 min. fee, deposit account	\$400	\$88
	66. Buoys, Floating Platforms	\$400 per buoy or Floating Platform (for first 3) plus \$200 per additional Buoy or Floating Platform	\$400 (3 or fewer buoys are exempt)	\$88
	67. Piers, Water Intake Lines	\$2,500 min. fee, deposit account	\$400	\$88
	68. Boat Ramps, Breakwaters or Jetties, Shoreline Protective Structures	\$2,500 min. fee, deposit account	\$400	\$88
	OTHER			
	69. Dredging & Filling	\$4,000 min. fee, deposit account	\$400	\$88
	70. Shoreland Scenic Assessment – Baseline, Development Review, and Banking, Shorezone Character Type Verification/Challenges	\$400 min. fee, deposit account	N/A	\$88
	71. Transfer of Shoreland Scenic Credit, Shorezone Structure Transfers	\$515 min. fee, deposit account	\$400 (3 or fewer buoys are exempt)	\$88
	72. Other	\$1,200 min. fee, deposit account	\$400	\$88

<sup>(1)</sup> Preliminary Pier Application fees apply toward Fee 63 for those selected for a new pier pursuant to Subsection 82.4, TRPA Code.

## 2008 Shorezone Plan Fee Schedule

2008 Shorezone Fee	Possible Uses
<b>Programs</b>	
<b>Implementation Program</b> Buoy Permitting Application Fees (\$500-\$250/buoy)	<ol style="list-style-type: none"> <li>1. Processing Shorezone Buoy Permits</li> <li>2. Processing Permitting Regulations &amp; Documents</li> <li>3. Permit Tracking and Accounting</li> </ol>
<b>Enforcement Program</b> (50% of \$175/\$100 per Mooring Annual Fee) and One Time Buoy Enforcement Fee (\$500)	<ol style="list-style-type: none"> <li>1. Buoy Removal</li> <li>2. Enforcement of Permit Conditions</li> <li>3. Mooring Registration Program</li> <li>4. Processing Enforcement Regulations &amp; Documents</li> </ol>
<b>Shorezone Monitoring Program</b> (30% of \$175/\$100 per Mooring Annual Fee)	<ol style="list-style-type: none"> <li>1. Water Quality Monitoring</li> <li>2. Air Quality Monitoring</li> <li>3. Noise Monitoring</li> <li>4. Scenic Monitoring</li> <li>5. Surveys</li> </ol>
<b>Blue Boating Implementation Program</b> Inspections, Education, Noise Reduction, Monitoring, & Enforcement (Approx. 35% of AIS/BB Inspection Fees)	<ol style="list-style-type: none"> <li>1. Watercraft Surveys</li> <li>2. Inspections</li> <li>3. Bilge Cleaning</li> <li>4. Outreach</li> <li>5. Water Quality Monitoring</li> <li>6. Processing BB Regulations &amp; Documents</li> </ol>

Other Mitigation Fees	
Scenic Mitigation Projects (20% of \$175/\$100 per Mooring Annual Fee)	<ol style="list-style-type: none"> <li>1. Fund Public Land Scenic Shoreland Improvements</li> </ol>
Blue Boating Mitigation Supplemental Control Measures (Approx. 15% of BB Sticker Fees)	<ol style="list-style-type: none"> <li>1. Implement Pollution Control Measures to Offset Impacts from Additional Boating</li> </ol>
Lake Tahoe Public Access Mitigation for Private Piers (\$100K per pier or \$20 per sq. ft.)	<ol style="list-style-type: none"> <li>1. Recreational Access Improvements</li> </ol>

**2008 BUOY FEE SUMMARY**

<u>Fee Type</u>	<u>Fee Amount</u>	<u>When Fee is Due</u>	<u>What Does Fee Fund</u>
Application Fee	\$500/Buoy 1-3 \$250/Buoy 4+	At Time of Application	Project Review Costs
One-Time Fee [54.13.B(1)]	\$500/buoy 2 and above (single use buoys)	At Permit Issuance	Enforcement
Annual Registration Fee	\$175/buoy/year (private)	Every Two Years (10/15/09 or permit issuance)	50% Enforcement 30% AQ/WQ Monitoring 20% Scenic Improvements
	\$100/buoy/year (public)	Every Year (10/15/09 or permit issuance)	



## Meeting Materials: Shoreline Program Mitigation

### Mitigation Policy Development

#### V1. December 14, 2017

The Shoreline Steering Committee has agreed that environmental improvement as an outcome of the Shoreline program is an important objective. Experience indicates mitigation will likely be required to avoid or offset the impacts of recreational boating and shorezone structures permitted under the proposed Shoreline Plan. If this past is prologue, mitigation programs may be needed to address potential impacts to air quality, water quality, scenic resources, noise, aquatic invasive species, fisheries, safety and recreation. Mitigation strategies include programs that offer a range of options, from project specific measures (e.g., project level scenic mitigation ratios), to banking programs (fish habitat restoration banks) to fee assessments (e.g., buoy fees for enforcement efforts).

To facilitate the productive development of these programs, particularly fee programs, the Steering Committee is asked to consider and propose overarching policy direction on how best to construct a fee program and apply mitigation fees— such as fees should be borne by all who contribute to the impact. The approach must ultimately be consistent with the organizing principles of the Shoreline Plan that were adopted by the Steering Committee, but there may be other planning principles we want to consider. This includes not only protecting, but *enhancing* the environment and reducing complexity.

#### Planning Principles for Mitigation Program

When considering implementation of mitigation strategies, the following concepts might lead to guiding principles:

- Should a mitigation fee program be distributed equitably and how?
- What user groups should be targeted?
- Should a mitigation fee program differ by permit type?
- Should proportionality be considered? Based on what?
- Should ability to implement be considered? Ease of fee collection? Ease of administration? Administered by one agency or multiple agencies?
- Simplicity vs Complexity-Is the program understandable?
- Are there differences between existing and new users or existing vs new activities?
- Is the fee one-time or periodic?
- Should the fee program be adjusted or adaptively managed?

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CALIFORNIA STATE  
LANDS COMMISSION AND THE TAHOE REGIONAL PLANNING AGENCY  
REGARDING SHOREZONE PERMITTING COORDINATION AND ENFORCEMENT**

This MEMORANDUM OF UNDERSTANDING (MOU) is entered into this \_\_\_\_ day of \_\_\_\_, 2017 by and between the California State Lands Commission (CSLC), an agency of the State of California and the Tahoe Regional Planning Agency (TRPA), a bi-state agency created by the Tahoe Regional Planning Compact (together herein described as “the Parties”).

**RECITALS**

WHEREAS, Lake Tahoe is a navigable body of water, approximately two thirds of which is within California;

WHEREAS, the bed and banks of the California portion of Lake Tahoe are owned by the State of California up to elevation 6,223 feet Lake Tahoe Datum (LTD) (State Sovereign Lands);

WHEREAS, the California public trust easement extends from 6,223 to 6,228.75 feet LTD (State Easement);

WHEREAS, the State of California through the CSLC has authority to issue leases for the lawful use of its Sovereign Lands and inherent authority to administer the State Easement;

WHEREAS, the State Sovereign Lands and the State Easement shall collectively be referred to as State Lands and Interests hereafter;

WHEREAS, the TRPA has authority to issue permits for uses and structures within the Lake Tahoe Region under the Tahoe Regional Planning Compact;

WHEREAS, the TRPA has authority to plan for the development, utilization and management of the recreational resources of the Lake Tahoe Region, including its beaches and marinas;

WHEREAS, CSLC desires to preserve and protect legal public access to and along the California side of Lake Tahoe for all lawful purposes;

WHEREAS, the TRPA desires to preserve and protect recreational opportunities at Lake Tahoe;

WHEREAS, both CSLC and TRPA have an interest in a coordinated and streamlined processing and implementation of their respective permitting authority, leasing authority and other authorities at Lake Tahoe;

WHEREAS, the placement of piers, mooring buoys and other structures on State Sovereign Lands requires a lease from the CSLC ( Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b)) and a permit from the TRPA (TRPA Code of Ordinances 52.4.A);

WHEREAS, the Parties are entering into this MOU to establish the agreements of the Parties with respect to the permitting of structures and activities involving State Sovereign Lands and Interests that may affect recreational opportunities at Lake Tahoe;

WHEREAS, each of the Parties reserves its respective authorities and responsibilities, and this MOU is not intended to delegate or cede any authority or responsibility from one party to the other;

WHEREAS, the Parties respect the sovereign interests of the state of Nevada and agree that the provisions of this MOU only govern the California side of Lake Tahoe and in no way affect the Nevada side of Lake Tahoe or the sovereign interests of the state of Nevada;

WHEREAS, TRPA approved this MOU on XXX and CSLC approved this MOU on XXX.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

- I.** The Parties agree to work together cooperatively to implement the terms of this MOU. Pursuant to all applicable laws of the State of California, the Tahoe Regional Planning Compact and the TRPA Regional Plan and Code of Ordinances, the Parties acknowledge that each agency retains its own legal authority and jurisdiction. Nothing in MOU is intended to alter, amend, or exempt applicants from CSLC lease requirements.
- II.** The following terms are defined for purposes of this MOU:
- A. Proposed Shorezone Improvements - Any new building, structure, improvement, or other human construction on State Lands or Interests that triggers the requirement for a permit under TRPA's Code of Ordinances. Proposed Shorezone Improvements do not include Exempt or Qualified Exempt activities under TRPA's Code of Ordinance.
- B. Design Condition - Conditions or design elements provided by CSLC that provide for legal, lateral public access as appropriate for each property, so as to ensure there is no unreasonable interference with legal, lateral public access. Primarily, legal, lateral public access can be provided with respect to a particular Proposed Shorezone Improvement by either incorporating stairs or ladders and appropriate signage that allows the public to pass over the Proposed Shorezone Improvement; using open piling construction with sufficient vertical clearance and signage that allows the public to pass under the Proposed Shorezone Improvement; or, with the permission of the landowner, providing a permanent path with signage that directs the public around the Proposed Shorezone Improvement through the privately owned upland.

C. Eligible Design: any Proposed Shorezone Improvement that includes design elements intended to provide for legal, lateral public access that complies with TRPA's specific public access design exemptions codified in TRPA's Code of Ordinances at X.X. *[Note to reviewers: it is anticipated that TRPA would simultaneously amend its Code of Ordinances at the same time the parties enter into this MOU, and that in its Code of Ordinances it would refer to a set of Eligible Designs: (1) If stairs, then TRPA may exempt {x amount} of visual mass caused by the stairs; (2) If passage under a pier, then TRPA may issue a variance for deck height of no more than 6234 feet elevation; and if passage around a pier, TRPA may exempt {x amount of backshore cover} .]*

D. Jurisdictional Determination - A written determination by CSLC that the Proposed Shorezone Improvement:

1. Will not encroach upon or otherwise impact State Sovereign Lands or the State Easement (No Jurisdiction Determination);
2. Will encroach upon or otherwise impact State Sovereign Lands (a Fee Ownership Determination); and/or
3. Will encroach upon or otherwise impact the State Easement (an Easement Determination).

III. The Parties shall coordinate with each other prior to issuing a permit, approval, or lease with regard to a Proposed Shorezone Improvement through the following procedures to streamline and coordinate the review and approval of applications for Proposed Shorezone Improvements.

A. Buoy Leasing and Permitting

Author 9/20/2017 4:24 PM  
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1. Coordinated application process [details to be developed at a later date, including considerations for low lake level adaptation.]

B. Permitting and Leasing for Proposed Shorezone Improvements Other Than Buoys

1. TRPA shall require any applicant for a Proposed Shorezone Improvement to obtain a Jurisdictional Determination from CSLC as part of the permit application process.
2. CSLC shall process Jurisdictional Determination requests within 45 days of receipt of materials reasonably necessary to make a Jurisdictional Determination. Depending on the Proposed Shorezone Improvement, these materials may include, but are not limited to, design plans, site and location photographs, and survey information sufficient to locate the Proposed Shorezone Improvement in relation to the State Lands and Interests. CSLC shall provide a written Jurisdictional Determination to the applicant and TRPA. If CSLC fails to issue a Jurisdictional Determination, the applicant may elevate the matter to the executive level of both agencies. CSLC shall issue the Jurisdictional Determination within 10 days from the date of the elevation.
  - a. If the CSLC makes a No Jurisdiction Determination, no Design Conditions or CSLC lease will be required.
  - b. If the CSLC makes an Easement Determination, CSLC will not require a lease, but TRPA will include Design Conditions in the applicable TRPA permit unless the Design Conditions require

modification to be consistent with TRPA's Code of Ordinances or its adopted Environmental Threshold Carry Capacities. If the Design Conditions require modification, TRPA and CSLC, in consultation with the applicant, will agree upon the necessary changes and TRPA will incorporate the modified Design Conditions into applicable permit.

- c. If the CSLC makes a Fee Ownership Determination, CSLC will require a lease, and TRPA will include Design Conditions in the applicable TRPA permit subject to the modification process set forth in Paragraph III.B.2.b.
3. If the CSLC has made a Fee Ownership Determination and/or an Easement Determination and no Eligible Design is proposed the CSLC will work with the applicant and TRPA to receive input and discuss the Proposed Shorezone Improvement, the public trust needs, and other local conditions to determine an appropriate Design Condition (the "Routine Process"). The CSLC will consider whether the Design Conditions contemplated are feasible and appropriate for the Proposed Shorezone Improvement, taking into consideration other TRPA regulations and ordinances.
4. If the CSLC has made a Fee Ownership Determination and/or an Easement Determination and an Eligible Design is proposed, the CSLC will work with the applicant to receive input and discuss the Proposed Shorezone Improvement, the public trust needs, and other local

conditions to determine an appropriate Design Condition (the “Streamlined Process”). The CSLC will consider whether the Design Conditions contemplated are feasible and appropriate for the Proposed Shorezone Improvement, acknowledging that TRPA has effectively “pre-approved” the generic design through the Eligible Design process.

5. Once the CSLC has made a final determination as to an appropriate Design Condition, TRPA will include the Design Condition in TRPA’s permit for the Proposed Shorezone Improvement subject to the modification process set forth in Paragraph III.B.2.b.
6. [note to reviewers: do we want to include a reference to the possibility of a variance to accommodate the Design Conditions in the MOU? If so, this language might be a start: *TRPA may exempt {x} visual mass caused by the stairs under {section number}. In order to accommodate passage under a pier as a design standard, TRPA may issue a variance for deck height of no more than 6234 feet elevation under {section number}. In order to accommodate passage around a pier, TRPA may exempt {x amount of backshore cover} under {section number}.*
7. If CSLC makes a Fee Ownership Determination with regard to the Proposed Shorezone Improvement, the applicant will need a lease from CSLC or an amendment to an existing lease. It will be the intent of both Parties to engage in early coordination in order to process their respective applications concurrently.

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IV. Termination. This MOU may be terminated by any of the Parties upon one hundred twenty (120) days notice in writing. A Party's decision to withdraw from the MOU shall be made at a properly noticed public meeting and shall be supported by substantial evidence that the intent of the MOU is not being met. The Parties shall work in good faith to maintain this Memorandum of Understanding.

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**Deleted:** This MOU may be terminated by any either of the Party after holding at least one public hearing on the matter by its governing body and thereafter giving ies upon thirty (30) days notice in writing.

IN WITNESS WHEREOF, the parties have entered into this Memorandum of Understanding.

**CALIFORNIA STATE LANDS COMMISSION**

\_\_\_\_\_  
Jennifer Lucchesi  
Executive Officer

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
Date

**TAHOE REGIONAL PLANNING AGENCY**

\_\_\_\_\_  
Joanne S. Marchetta  
Executive Director

\_\_\_\_\_  
Date

Approved as to form:  
TRPA General Counsel

\_\_\_\_\_  
John L. Marshall

\_\_\_\_\_  
Date

Draft Ordinance Language:

No permits shall be issued for new pier construction, [non-exempt](#) modification, or expansion [in California](#) unless TRPA has a valid agreement with the California State Lands Commission governing pier development activities within the shorezone in California. This requirement [for such an agreement](#) only governs and applies to the California side of Lake Tahoe, and in no way affects, or is intended to affect, the [Nevada side of Lake Tahoe or the](#) sovereign interests of the state of Nevada.