



NEVADA LEGISLATURE
LEGISLATIVE COMMITTEE FOR THE REVIEW AND
OVERSIGHT OF THE TAHOE REGIONAL PLANNING
AGENCY AND THE MARLETTE LAKE WATER SYSTEM
(Nevada Revised Statutes [NRS] 218E.555)

SUMMARY MINUTES AND ACTION REPORT

The fourth meeting of the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency (TRPA) and the Marlette Lake Water System was held on Monday, May 21, 2012, at 1 p.m. in the TRPA Boardroom, 128 Market Street, Stateline, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's website at <http://www.leg.state.nv.us/interim/76th2011/committee/>. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's (LCB's) Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

COMMITTEE MEMBERS PRESENT IN STATELINE:

Senator John J. Lee, Chair
Assemblyman Kelly Kite, Vice Chair
Senator David R. Parks
Senator James A. Settlemeyer
Assemblywoman Teresa Benitez-Thompson

COMMITTEE MEMBER ABSENT:

Assemblywoman Marilyn Kirkpatrick

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Jennifer Ruedy, Senior Research Analyst, Research Division
Eileen G. O'Grady, Chief Deputy Legislative Counsel, Legal Division
Heidi Chlarson, Principal Deputy Legislative Counsel, Legal Division
Wayne Thorley, Program Analyst, Fiscal Analysis Division
Lucinda Benjamin, Senior Research Secretary, Research Division
Brian Van Geel, Technical Communications Systems Specialist, Broadcast and
Production Services
Ryan Dombrowski, Technical Communications Systems Specialist, Broadcast and
Production Services

OPENING REMARKS

- Senator John J. Lee, Chair, welcomed the members, presenters, and the public to the fourth meeting of the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency (TRPA) and the Marlette Lake Water System and explained the hearing process for the meeting. He stated the goals of the Committee include the preservation of Lake Tahoe.

PUBLIC COMMENT

- Roger Patching, President, Friends of Lake Tahoe, commented on the public review period for the Regional Plan Update (RPU). Mr. Patching stated, in his opinion, that the 60-day public comment period is insufficient time to review all of the documents released by the TRPA in April, including the RPU. He commented that the RPU is a large project that remaps development for the entire Lake Tahoe Basin for the next 20 years and no other projects of its size or scope have been attempted recently. Mr. Patching opined that the review period is not long enough for the conservation and environmental communities to evaluate over 5,000 pages of information. He stated that a request for an extension of time was not approved by the TRPA Governing Board, and he asked if the December deadline could be changed. In his opinion given the complexity, magnitude, and historical significance to Nevada and California, prudence would dictate that the review period for the RPU be extended. Concluding, Mr. Patching again posed the possibility of a reasonable extension and stated, in his view, the Committee has not evidenced any unreasonable posture regarding issues affecting the Lake Tahoe Basin.

Discussion ensued on a letter recently circulated by the conservation community active in the Lake Tahoe Basin that stated any outcome of the RPU would be opposed. The question was raised whether additional time would be used to damage a good process or to engage in a beneficial one. There was agreement that opposing sentiments of the RPU do exist and any imprudent comments would not be productive.

- Dave McClure, Vice President, North Tahoe Citizen Action Alliance, who is testifying as a private citizen and resident of Reno, stated he has reviewed all the documents that were released by the TRPA in April, including the RPU. He commented on the volume and intricacy of the various inter-related documents, which in his opinion would require more than 60 days to review. Mr. McClure commented on the amount of TRPA staff time and use of public funds to develop “legally defensible” documents. Concluding, Mr. McClure questioned whether constituents are aware of the amount of information contained in all the documents, as presented. He opined that the 60-day review period does not allow the public enough time to review all the documents. He suggested a review period of at least 120 days based on the volume of documents in the updated Regional Plan. Mr. McClure explained that he is a local businessperson and a Nevada resident for 33 years. He also worked with the TRPA for 14 years on a development project and has been involved in the Pathway 2007 Place-Based Planning process and other projects that Placer County has initiated in the Lake Tahoe Basin.

Ellie Waller, Tahoe Vista resident of the north shore of Lake Tahoe, California, stated that she has been involved in the Pathway planning process since 2006. She has spent hours reviewing the documents as a resident and as a member of some of the local conservation groups, but stated the large quantity of references and detail make the review process difficult. Ms. Waller stated there are individuals who care about the process, in addition to the environmental and conservation groups.

Pat Sanderson, private citizen, commented on the passage of Senate Bill 271 (Chapter 530, *Statutes of Nevada*) and the lawsuits filed on projects in the Lake Tahoe Basin. In his opinion, regardless of the length of the review period lawsuits will be filed, so he supported moving the process forward.

APPROVAL OF THE MINUTES OF THE MEETING HELD ON MARCH 19, 2012, IN INCLINE VILLAGE, NEVADA

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR SETTELMAYER MOVED TO APPROVE THE “SUMMARY MINUTES AND ACTION REPORT” OF THE MARCH 19, 2012, MEETING HELD AT INCLINE VILLAGE, NEVADA. THE MOTION WAS SECONDED BY ASSEMBLYMAN KITE AND PASSED.

UPDATE ON RECENT BISTATE DISCUSSIONS RELEVANT TO THE TRPA

- Leo M. Drozdoff, P.E., Director, State Department of Conservation and Natural Resources (SDCNR), provided a brief summary of the passage of S.B. 271, discussions between the Governors of Nevada and California, and the update to the Regional Plan to be completed by a time certain. He stated discussions began in the fall and winter of 2011 with the TRPA staff to develop milestones and a process to ferret out issues for the RPU. The process included forming various committees of the TRPA Governing Board to identify areas of agreement and disagreement. Mr. Drozdoff stated that he met numerous times and held discussions with John Laird, Secretary, California Natural Resources Agency, to monitor the progress of the TRPA.

Further, by the spring of 2012, he noted that it became evident to all involved that there was concern with some of the content of the RPU documents. He explained that a number of votes were taken at a committee level that were not unanimous, so based on the votes, some intervention was deemed necessary to avoid the RPU being litigated, which is still a possibility. Mr. Drozdoff explained that an impromptu group of local residents, local governments, representatives from the environmental and business communities, and TRPA Governing Board members was formed to work through issues. He explained the members of the working group include himself; James R. Lawrence, Administrator and State Land Registrar, Division of State Lands, SDCNR; Steve Robinson, Member, Governing Board, TRPA, designated by the Director of the SDCNR; Steve Mokrohisky, Douglas County Manager; Lew Feldman, representative of the business community; Kyle Davis, Political Director, Nevada Conservation League; John Laird, Secretary, California Natural Resources Agency; Todd Ferrara, Deputy

Secretary for External Affairs, California Natural Resources Agency; Art Chapman, President, JMA Ventures, LLC; Darcie Goodman-Collins, Ph.D., Executive Director, League to Save Lake Tahoe; Claire Fortier, Member, Governing Board, TRPA, and Mayor, City of South Lake Tahoe; and E. Clement Shute, Jr., Governor of California Appointee and Chair of the Regional Plan Update Committee to work through issues.

Continuing, Mr. Drozdoff explained that the group started with the delegation of decision-making authority to local governments. He said the plan was to address the balance of the concerns in June and July 2012 when the SDCNR and the Office of the California Secretary for Natural Resources would develop a position paper with proposed language representing any compromises reached on the issues of concern. He opined that if the proposed language were then adopted into the RPU, it could reduce the probability of litigation. Mr. Drozdoff mentioned that the Lake Tahoe Summit is scheduled for August 13, 2012, which is near the end of the public comment period, and the TRPA would have the benefit of the work performed by the Nevada/California group and input from the public.

- Chair Lee explained that the time frames and dates included in S.B. 271 were developed based on a consensus of representatives from the States of Nevada and California.
- Mr. Drozdoff discerned that the time frame was ambitious but a great deal of importance was placed on completing the RPU and commented that his office, Mr. Laird's office, and the TRPA are committed to developing an augmentation to what the TRPA has put forward that will serve the Lake Tahoe Basin well and represent a true spirit of compromise.
- Chair Lee commended Mr. Drozdoff for all the hard work and effort accomplished on the RPU.

PRESENTATION ON THE ROLE OF NEVADA'S OFFICE OF THE ATTORNEY GENERAL IN THE LAKE TAHOE BASIN

- Marta Adams, Chief Deputy Attorney General, Office of the Attorney General (OAG), State of Nevada, stated that her office has received updates from the SDCNR and her office is encouraged by the process that has taken place regarding the RPU. She explained that the OAG has participated in litigation on Lake Tahoe issues over the years representing various State agencies because of the perception of the OAG that there is an overriding State interest in Lake Tahoe issues. However, she noted that unlike the California Attorney General's Office, Nevada does not have a designated deputy dedicated to issues and activities regarding Lake Tahoe due to a lack of resources at this time. She stated the OAG supported the update of the Regional Plan and offered continued cooperation to the Committee.

Discussion was held on how requests for OAG involvement in Lake Tahoe issues is handled. The OAG was involved in the consensus-building workshop for the development of the 1987 Regional Plan. A request could be issued, if the Committee Chair determined there was a need to assist the SDCNR on issues that affect Lake Tahoe.

- At the request of the Chair, Jennifer Ruedy, previously identified, explained that the Chair had extended invitations to testify to the Nevada and California Offices of the Attorney General and a written response was received from Daniel L. Siegel, Supervising Deputy Attorney General, on behalf of Kamala D. Harris, Attorney General, State of California. The letter response also contained a list and brief description of lawsuits from 1971 to 2010 in which the California Attorney General either represented the people, or represented a client agency, in efforts to protect Lake Tahoe. (Please see [Exhibit B.](#))

In response to an inquiry from Chair Lee for information on the process for requesting assistance from the Nevada OAG, Ms. Adams stated normally assistance is provided in response to requests from client agencies but added the OAG would also respond to a direct request from the Committee.

PRESENTATION ON THE THRESHOLD EVALUATION REPORT OF THE TRPA

- Joanne S. Marchetta, Executive Director, TRPA, welcomed the Committee to the TRPA office and presented information on the draft 2011 Tahoe Basin Threshold Evaluation Report (Report) and the relationship to the RPU. She indicated the Report is produced every five years and it outlines the health of the Lake Tahoe ecosystem and was presented to the public and TRPA Governing Board (Board) on April 25, 2012, along with the draft Regional Plan, the Regional Transportation Plan, and associated environmental documents. She pointed out that for the first time the Report received peer review by an independent seven-member panel of scientists coordinated by the Tahoe Science Consortium. Ms. Marchetta stated the independent panel found that the Report was technically sound, and the data indicated that the Lake Tahoe Basin's ecosystem is trending in the right direction, with some exceptions. She explained the panel noted improvements in the methodology previously used and that others would need to be incorporated into future evaluations. The panel found that the approach used for the threshold evaluation was a vast improvement over past reports and indicated that more was measured in the Report than done previously.

Continuing, Ms. Marchetta reported that there were 151 environmental standards in the Report developed for individual standards rather than as a combined category, as was done previously. The finer resolution will allow the TRPA to determine more focused policy and management decisions. Further, she explained that the threshold evaluation fits into the framework of the Lake Tahoe Basin by strengthening the effectiveness of the Regional Plan. She said the evaluation findings would provide recommendations for Regional Plan amendments, amendments to the threshold standards, prioritization of capital improvement and restoration projects, and for changes to the threshold-monitoring program. Consequently, she noted the threshold evaluation is a very important management tool for the TRPA for continual improvement and the adapted management cycle of: (1) plan; (2) do; (3) check; and (4) adjust. Ms. Marchetta explained that the threshold report is the "check" element of the management cycle. Ms. Marchetta stated that a majority of the indicators are showing a positive trend for threshold attainment with 63 percent of the determinable standards holding steady or improving. She said the

comprehensive report covers all nine of the environmental threshold categories. (Please see [Exhibit C](#) and [Exhibit C-1](#).)

Further, Ms. Marchetta focused on some of the key areas of concern, which are to improve the rate of progress for threshold attainment and the need of updated scientific approaches. She reiterated that overall the Report found that the existing Regional Plan successfully continues to make progress in improving environmental quality, but the progress could be accelerated in important areas. She related the following areas for improvement to current proposals for the RPU:

1. Protect water quality—water quality standards have been achieved and conditions have not declined;
2. Algae, aquatic invasive species, declining aquatic macroinvertebrates and declining deep-water plant species “near shore” require more work—dependent on further scientific reports;
3. Air quality—efforts required to reduce vehicle use within the Lake Tahoe Basin; and
4. Soil conservation (land coverage category), which includes sensitive stream zones and restoration projects—progress is being made.

In addition, Ms. Marchetta stated that 87 percent of the air quality standards are in attainment in the Lake Tahoe Basin and are either at or better than adopted standards. She noted, however, that scientists urge caution, and so the RPU will target local community projects to help deliver walkable, transit-friendly communities to continue reductions in vehicle use. She related soil conservation thresholds with land coverage controls, which is another important focus for the Report and the RPU proposals. She said limiting coverage and preventing erosion and runoff are critical for soil conservation and water quality thresholds. The best information available indicates that eight of nine indicators related to impervious land coverage are in attainment, but the land coverage category that needs accelerated improvement is sensitive wetlands, which tend to be over-covered from development that occurred prior to the Regional Plan.

Concluding, Ms. Marchetta stated the policies have been effective in stopping new development in the sensitive stream zones and restoration projects and are making progress in achieving wetland restoration goals. The draft RPU targets removal of harmful development on sensitive lands and environmental redevelopment that reduces existing coverage within community centers. She noted that good gains have been made in scenic quality over the last five years and overall attainment of threshold standards is at 93 percent with an improving trend. The locations in the Lake Tahoe Basin that need more work to accelerate progress toward scenic attainment correspond especially to the dated, deteriorating development along roadways and the shoreline. The RPU directly addresses improving the scenic quality along roadway corridors by using incentives for environmental redevelopment, which will also facilitate multiple environmental and economic benefits. Finally, Ms. Marchetta mentioned that the TRPA and peer review panel recommended that the Lake Tahoe Basin’s noise standards be comprehensively reevaluated. She ended her testimony by discussing data gaps and the need to continue

ongoing work to update the threshold system and monitoring program for the Lake Tahoe Basin. She explained that an indicator system was designed 25 years ago without regard to cost and through the last five Reports, the measurements have not been complete. The measurement is estimated to cost \$10 million annually, and all Lake Tahoe Basin partners combined for status and trend monitoring spend approximately \$2 million each year. Therefore, although every threshold category is measured, many individual indicators, among the 150 plus, had to be reported as “unknown.” It is estimated that the annual investment needs to be doubled to \$4 million in order to get a fully integrated status and trend-monitoring program. Overall, she was encouraged that the investments made in environmental restoration have made positive differences, and the information gathered has given a clear roadmap for the current draft RPU.

In response to a question from Chair Lee regarding noise, Ms. Marchetta said that noise monitoring includes single event noise and cumulative noise level threshold standards along local roadway corridors. She explained that for special events there generally are special permits issued based on timing to restrict noise during the night, for example. In response to an inquiry about whether the TRPA was required to have this Report peer reviewed, Ms. Marchetta noted that it was a condition of the TRPA’s 2011 budget approval by the California Legislature to have the Report peer reviewed by an independent panel. Ms. Marchetta commented that the TRPA had to reallocate some funds to pay for the peer review, and the Tahoe Science Consortium assisted the TRPA in securing the panel of scientists for the review. She added that the TRPA will look for ways to incorporate independent peer reviews in future reporting.

In response to a question from Assemblywoman Benitez-Thompson about examples where possible methodology changes might yield better qualitative data, Ms. Marchetta explained that “near shore” work was conducted to determine conditions and causes that affect near shore areas that include setting numeric standards to measure the health of that ecosystem. She said turbidity is measured, and the report suggests that other metric indicators be used to measure the health of the near-shore system.

- Julie Regan, Chief of Internal Affairs, TRPA, provided additional information on the planning process, guidelines for the 151 standards, and peer review on all the aspects of an ecosystem and the evaluation of the threshold standards.
- Ms. Marchetta further explained that the peer review suggested that TRPA should evolve to a system that looks at cross-disciplinary measures, using larger and more integrated landscape measures.

PRESENTATION ON THE REQUEST FOR FUNDING FOR THE U.S. HIGHWAY 50 SOUTH SHORE COMMUNITY REVITALIZATION PROJECT FROM THE GRANT PROGRAM FOR TRANSPORTATION INVESTMENTS GENERATING ECONOMIC RECOVERY (TIGER)

- Steve Teshara, Coordinator, Lake Tahoe Partnership, and Principal, Sustainable Community Advocates, commented on the TIGER grant application and said the project is for environmental improvement. The project proposal will be consistent with TRPA water quality thresholds and the new Lake Tahoe Total Maximum Daily Load.

He explained the project includes: (1) reduction of vehicle miles traveled; (2) creation of more walkable, bicycle and transit-friendly communities; (3) facilitate environmental redevelopment or “legacy development”; and (4) improve the scenic quality and functionality of the community design and infrastructure. Mr. Teshara said the project is eligible for the TIGER IV grant program.

In response to comments from Chair Lee, Carl Hasty, District Manager, Tahoe Transportation District, explained that the project would involve 1.1 miles near the Stateline area. He said the project spans the Nevada/California boundaries and will travel along the mountainside of the current U.S. Highway 50, which would become a local street. He opined the project would improve the entire area for residents and catalyze private investment in adjacent properties.

- Mr. Hasty indicated that approximately 40 letters of support to Ray LaHood, Secretary of Transportation, U.S. Department of Transportation, have been received from various organizations supporting the public-private project. He said that an offer has been received for the right-of-way on the Nevada side for the project. He added timelines are important as he expects to have the environmental document into permit in 2013, and construction funding is being sought.
- Chair Lee discussed the possibility of also gaining support from Nevada’s Congressional Delegation.
- Steve Teshara, previously identified, explained that there is broad support for the TIGER Project and a letter of support has been received from Senator Harry Reid, United States Senate.
- William “Buzz” Harris, President, WBH Enterprises, stated the TIGER Project is an example of the cooperative effort between Nevada and California and will greatly contribute to the water clarity of Lake Tahoe, public safety, and the local economy.
- Bruce Grego, at the request of Chair Lee, stated the City Council of South Lake Tahoe will be discussing their position on the RPU at the June 5, 2012, meeting. He stated that on May 29, 2012, the Council will discuss the realignment of U.S. Highway 50, which will include condemnation of public property. In his view, Mr. Grego stated that serious improvement on the current process is needed to benefit the economy and the environment.

In response to Chair Lee’s inquiry about local government involvement, Leo Drozdoff, previously identified, noted that the Douglas County Manager and the Mayor of South Lake Tahoe have been involved in discussions with the SDCNR.

- Assemblyman Kite stated that the local governments have addressed some critical issues and stated the local governments and state representatives are currently working together, and slow progress is being made. He added further work would be necessary before an outcome could be reached.

- Bruce Grego, previously identified, stressed not to make decisions on the RPU and changes for the TRPA based on the likelihood of lawsuits, but rather on what changes are necessary.
- Leo Drozdoff, previously identified, agreed with Assemblyman Kite's assessment and reiterated that a positive outcome to the discussions would be to understand the different viewpoints of the stakeholders from Nevada and California, identify the differences, and work toward compromise of the issues to reduce the likelihood of litigation.

In response to a request from Chair Lee, Steve Robinson, Nevada delegate from the TRPA Governing Board, stated progress was being made in the bistate consultations. He said one of the basic issues was delegation of authority to the local governments from the TRPA. He commented on the letter mentioned earlier in the meeting by the Chair from conservation groups regarding the draft RPU. He said that he and Mr. Shute had initially been willing to extend the public review period beyond the 60 days until further consideration was done of the number of tasks to be accomplished and the time required for the tasks, including the allowance for public comment before the TRPA Governing Board.

Discussion was held on the proposed draft letter of support for the TIGER Project. (Please see [Exhibit D](#).)

In response to a request from Chair Lee on environmental review concerns regarding the RPU, Roger Patching, previously identified, expressed a concern regarding the magnitude and historical significance of the changes included in the draft RPU and that more time for review should be allowed. He further stated that there are individuals of the opinion that environmental threshold standards are being threatened by the draft RPU.

- Dave McClure, previously identified, presented one example related directly to the threshold analysis based on modeling to determine the TMDL and stated many scientists see the faults in the modeling proposed in the RPU, while documenting 30 urban pipes feeding dirty water directly into Lake Tahoe, a problem not being currently addressed.
- Carl Hasty, previously identified, commented that the letter of support for the TIGER Project was needed in order to be included in the grant application.
- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN KITE MOVED TO APPROVE THE DRAFT LETTER PRESENTED, WITH CORRECTION OF A TYPOGRAPHICAL ERROR, TO RAY LAHOOD, SECRETARY OF TRANSPORTATION, U.S. DEPARTMENT OF TRANSPORTATION, FROM SENATOR LEE ON BEHALF OF THE COMMITTEE IN SUPPORT OF THE TIGER IV GRANT APPLICATION. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN BENITEZ-THOMPSON AND PASSED.

PUBLIC COMMENT

- Julie Regan, previously identified, explained the schedule for a series of public workshops, open houses, and the TRPA Governing Board hearings planned to receive public comment on the RPU. She said environmental experts from the TRPA would be available to answer questions regarding the RPU.
- Jennifer Ruedy, previously identified, provided information for scheduling the next Committee meeting in August 2012 and explained she will continue to coordinate with legislative staff for the meeting between the Nevada and California delegations.

ADJOURNMENT

Chair Lee thanked the TRPA staff for hosting the Committee meeting at their office and announced that the next Committee meeting would be scheduled in August 2012. The location would be announced later. There being no further business to come before the Committee, the meeting was adjourned at 2:50 p.m.

Respectfully submitted,

Lucinda Benjamin
Senior Research Secretary

Jennifer Ruedy
Senior Research Analyst

APPROVED BY:

Senator John J. Lee, Chair

Date: _____

LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda,” provided by Jennifer Ruedy, Senior Research Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit B](#) is a letter to Senator John J. Lee, Chair, Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency (TRPA) and the Marlette Lake Water System, from Daniel L. Siegel, Supervising Deputy Attorney General, on behalf of Kamala D. Harris, Attorney General, Office of the Attorney General, State of California, regarding involvement with environmental matters in the Lake Tahoe Basin.

[Exhibit C](#) is a Microsoft PowerPoint handout dated May 21, 2012, titled “Draft 2011 Tahoe Basin Threshold Evaluation Report,” presented by Joanne S. Marchetta, Executive Director, TRPA.

[Exhibit C1](#) is a draft document dated April 2012 titled “Executive Summary, 2011 Threshold Evaluation–TRPA,” submitted by Joanne S. Marchetta, Executive Director, TRPA.

[Exhibit D](#) is a draft letter to Ray LaHood, Secretary of Transportation, U.S. Department of Transportation, from Senator John J. Lee, regarding Committee support for the request for funding for the U.S. Highway 50 South Shore Community Revitalization Project from the grant program for Transportation Investments Generating Economic Recovery (TIGER).

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.