

## **APPENDIX D**

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Additional Response to Comments Received after the Comment Period



## Appendix D

### Upper Truckee River and Marsh Project Final Environmental Document

#### Additional Responses to Comments Received After the Comment Period

##### **Context**

The California Tahoe Conservancy (Conservancy) released the Upper Truckee River and Marsh Restoration Project (Project) Public Draft Environmental Document in February of 2013 for a 60 day public review period. The Conservancy provides written responses for comments received during this formal comment period, which can be found in sections 3 and 4 of the Final Environmental Document.

Several members of the public commented on the Project following the formal public review period, either by speaking at Conservancy Board meetings or through the submittal of written comments. Staff recognizes that these additional comments are an important part of the record and that they merit written responses due to their importance to the Board and public. Staff responds to these more recent comments below, with additional clarification provided for new and unique comments not already raised within the formal period.

##### **Public Comments regarding potential access improvements on the east side of the Marsh**

Several members of the public voiced concerns related to public access improvements on the east side of the Marsh. Comments were raised in December 2013, May 2014, and July 2014 at Conservancy Board meetings. Commenters expressed concerns that boardwalks, bike trails, and other developed facilities on the east side of the Marsh were not appropriate. Commenters indicated that potential recreation infrastructure in these areas would result in increased management issues and environmental impacts, such as parking pressures and disturbance to sensitive habitats. A petition was drafted and signed by numerous members of the public, wherein they further communicated their concerns related to various Project Alternatives.

##### **Responses to comments**

Staff conducted analysis to consider project benefits, feasibility, and public comment in the selection of the Preferred Alternative. The results of this analysis demonstrated that Alternative 5, the “no action” alternative, is preferred for recreation elements on the east side of the Marsh. Staff determined that maintenance of the existing user-created trails in this portion of the study area is most consistent with the existing levels of use in this area, and that the no action alternative would appropriately protect resources into the future.

Conservancy staff presented the “preliminary staff recommended alternative” to the public and Board in September 2014, including the “no action” alternative for east side recreation. Several of the members of the public who had expressed concerns in prior Board meetings voiced support for this recommendation, as it addressed their concerns related to additional infrastructure and potential management and environmental impacts. Additional information in regards to specific comments and responses on this issue, which were received during the formal comment period, can be found in the Sections 3 and 4 of the Final Environmental Document.

## **Comment letter received regarding the Dunlap Ranch Property, November 12, 2013:**

Commenters expressed support for the Project and the importance it will have in restoring water quality and other resources. Commenters discussed concern about public access in the Marsh related to the specific alternatives, due to the potential for increases in trespassing and other management issues such as littering (see attached comment letter for specifics related to the Alternatives). Commenters felt that Alternatives 1, followed by 4, would be the most appropriate, that Alternative 3 would be cost prohibitive, and they do not support Alternative 2. Commenters also raised several specific questions, which are addressed individually below.

### **Responses to comments**

Staff appreciates the careful consideration provided for the various Alternatives presented in the Draft Environmental Document. The Final Document provides substantial information and analysis regarding the screening and selection of the Preferred Alternative, including consideration of costs and other construction feasibility. The Preferred Alternative is the least expensive and most beneficial alternative, and it provides the most appropriate level of recreation infrastructure to complement onsite resources around the Marsh.

Staff also understands that public access and associated management concerns can impact adjacent properties to the Marsh. The various land management issues, as identified by the commenter, are an ongoing concern and the Conservancy will continue to manage the property into the future to address issues such as trash and illegal activities. Management challenges in the Marsh are continually evolving, but the Conservancy's Land Management Program prides itself in responding quickly to citizen concerns as they arise.

Specific questions raised, as summarized below, and responses:

- What would the scope of the easement language look like by alternative? *Easement language has yet to be created, but if the Board approves the Project staff will begin easement negotiation. Staff anticipates that the easement scope will include access for construction and maintenance of restoration improvements, and it will not include public access rights.*
- What specific strategies would take place to reduce trespass during construction and early post construction on to adjacent properties? *Fencing, signage, and other techniques will be used to control use and limit trespass during and following construction. The Conservancy's Land Management Program will continue to respond to various concerns into the future to limit potential impacts to adjacent areas.*
- Where are the Washington Avenue and California Avenue access points and staging areas? *All action Alternatives included a potential access point near the end of Washington Avenue and a possible access and staging location near the end of California Avenue. These potential construction access locations, if permitted by the private property owners, could have provided potential storage and access for equipment and materials. The Preferred Alternative does not propose an access point on Washington Avenue nor access or staging at the end of California (see the access and staging map in Chapter 2 and section 3.1.2 of the Final EIR/EIS/EIS for additional detail and information). Any access to, or use of, private property would need to be allowed by private property owners and negotiated in future easement agreements.*

- Will the project have any effect on the Tahoe Planning ordinance codes that could affect the historic Dunlap Ranch/ urban property? *The Project will not affect the City of South Lake Tahoe Area Plan or the Tahoe Planning Agency Regional Plan, and it will not result in related effects to the Dunlap Ranch/ urban property.*
- Visual concerns were raised related to excavation scarring associated with channel construction and filling. *Short term impacts related to excavation, channel filling, and disturbance is anticipated to varying degree under all Alternatives, including the Preferred Alternative. The disturbance would be limited to the minimum extent achievable, and disturbed areas would be revegetated as soon as possible following earthwork. Stabilization measures, as required for regulatory approvals and discussed in the environmental document, include use of erosion control fabric or other temporary protections, installation of vegetation of various types (seed, stakes, plantings etc.), and irrigation for at least two years to ensure vegetation success. Under the Preferred Alternative, channel excavation is only proposed in the center of the Marsh on State lands, and channel filling is also only proposed on State lands. The Conservancy incorporated various design measures to limit construction impacts such as excavation and filling scarring.*
- What are the anticipated noise impacts and would dust abatement efforts be included? *Sections 3.2 and 3.11 of the Draft EIR/EIS/EIS, and section 2.5 and 3.1.3 of the Final Document, provide additional specifics related to potential impacts and reduction measures related noise and air quality resulting from the Project. Various measures will be implemented, including dust abatement, to keep impacts within regulatory standards and at less-than-significant levels.*
- Will native vegetative species be brought in to stabilize the excavated banks? How and when will this occur? Will funding be determined prior to excavation so there is no down time following excavation? *The project includes extensive planting and revegetation with native species, which will be implemented as soon as possible following excavation. Successful revegetation is required by several regulatory agencies and will be required to be completed according to permit requirements (see Final Document for more detail - section 2.5). Irrigation will assist with plant establishment, and warranty requirements will ensure revegetation success. Funding will be secured for the Project, including the revegetation efforts, prior to excavation of new channels or floodplains.*
- What would be needed from the family as the project moves forward into planning and implementation with regard to time, permissions, money, etc.? And at what points in the project? *The Conservancy will continue to negotiate the aforementioned details with the family through the easement acquisition process. Following potential Board approval of the Project, Conservancy staff would work with the family to draft easement language, further define easement areas, appraise fair market compensation, and work towards an agreement that is acceptable to the family. Easements will need to be executed prior to final project design and construction.*

## **Public Comments raised by Scott Dietrich regarding several Project elements**

In September 2014 Scott Dietrich commented to the Conservancy Board in regards to the Marsh and the preliminary recommended alternative. Commenter questioned the natural delta concept and whether the Marsh would be okay when the river is left to form its own channel network. He also expressed concern over unleashed dogs in the Marsh and potential project impacts of the Project on shorebirds with a suggestion of additional protections such as signage. Mr. Dietrich also asked about the structure across the Sailing Lagoon and asked about modeling for potential Project flood impacts.

### **Responses to comments**

Staff consulted with various expert geomorphologists when screening the Alternatives, and the experts unanimously supported the Alternative 3 concept as the most appropriate for restoring the Marsh and the delta system it once supported. The impacts resulting from unleashed dogs continues to be an ongoing challenge, however Conservancy Land Management actions will continue to address this concern. Section 3.4 of the Draft Environmental Document provides a high level of detail related to the effected environment, Project impacts, and mitigation measures related to wildlife and shorebirds. Section 2 of the Environmental Document conceptually describes the structure at the Sailing Lagoon with conceptual schematic plans for these improvements provided in the appendix. A detailed hydraulic analysis was recently completed for the Preferred Alternative, and the technical flooding memorandum documenting the modeling results was distributed to the public on November 19<sup>th</sup> 2015, and is an appendix to the Final Environmental Document.

### **Additional comments raised by Tom Rosenberg, member of the public:**

In September of 2014 and again in 2015, California Tahoe Conservancy staff presented Upper Truckee River and Marsh Restoration Project (Project) updates to the California Tahoe Conservancy Board (Board) and the public. No action was recommended, as the purpose of the updates was to report on project progress and to notify the Board and public of the next steps, including upcoming Board approvals to be requested by staff.

After the staff presentations, the Board offered the public an opportunity to provide comments to the Board and staff. Tom Rosenberg, a member of the public and resident of a neighborhood adjacent to the Project, raised several concerns and comments related to the recommended alternative. Mr. Rosenberg also addressed the Board in July of 2014 with similar concerns and comments.

The commenter raised three aspects of the proposed project as briefly summarized below:

1. River rafting take-out and river rafting management issues
2. Updated flood analysis
3. Possible benefit of an additional comment period

## Responses to comments

1. The commenter indicated the recommended alternative does not include a river-rafting take-out, as the recommended alternative routes the river to the middle of the meadow and further from the traditional rafting take-out near the end of Venice Drive. The commenter discussed concerns regarding potential issues this modification to raft access may have on the east side and west side of the meadow. Concerns included sanitation, noise, and trash issues, and “so on”.

Response: Staff recognizes that rafting and non-motorized boating on the Upper Truckee River is an ongoing use which can impact adjacent properties as well as other recreational visitors to the Marsh. Rafting use is accompanied by various land management issues as identified by the commenter, and the Conservancy will continue to manage the property into the future to address issues such as trash and illegal activities. Management challenges in the Marsh are continually evolving, but the Conservancy’s Land Management Program prides itself in responding quickly to citizen concerns as they arise.

Staff also acknowledges that the recommended alternative will cause changes to rafting use patterns and accessibility, and the importance of this issue is recognized. Existing rafting use on the river is variable due to natural changes in river flows and weather conditions, and rafters currently enter and exit the river at several different locations. The recommended alternative will alter the river and the associated use patterns, however it is not yet fully known as to how the use patterns and associated management challenges will evolve over time. Under certain streamflow and lake level conditions rafters may continue their voyage down to Lake Tahoe or to locations near a traditional take out at Venice Drive. However, in lower water years and the related challenging rafting conditions similar to 2014 and 2015, it may be preferable for rafters/paddlers to exit the river further upstream.

The uncertain and speculative nature of future use patterns and the associated management concerns makes it impossible to resolve them at this time, however the Conservancy’s Land Management program will continue to respond to citizen concerns and evaluate potential solutions. In addition, the Conservancy is developing land management strategies which will further address ongoing uses within the project area.

2. The commenter noted the importance of the updated Project flood analysis for the City and also for the Tahoe Island Park and Tahoe Keys neighborhoods, and he stated that the updated flood analysis had not yet been released to the public. The commenter also remarked on the importance of the flood modeling spatial resolution and confidence levels, suggesting that a confidence level of 95% or better would be necessary to support the conclusions and findings in the environmental document.

Response: Staff agrees with the commenter regarding the importance of the updated flood modeling. The updated modeling supplements the information provided in the draft analysis to more fully address the comments and concerns expressed, and it supports the information and conclusions in the project’s draft environmental document. The Conservancy released a technical memorandum to the public and interested agencies, describing the methods and

results of the updated modeling effort, on November 19<sup>th</sup> 2015. The flood memo provides flood history for the neighborhoods, documents the flood hazard areas designated by FEMA, and describes the hydraulic modeling methods, assumptions, and results for both the existing condition, and for the proposed project conditions under the Preferred Alternative. The modeling results confirm the information in the draft environmental document, that the Project will not increase flood hazards to adjacent developed areas.

Technical experts (Cardno Inc.) conducted the updated modeling using detailed and extensive methods to simulate potential flood impacts of the recommended alternative. Cardno performed the modeling with a Federal Emergency Management Agency (FEMA) approved two-dimensional (2D) hydraulic model (XPSWMM) and following FEMA guidelines. The updated model has a very high level of spatial resolution, with high quality topographic data and site specific input information regarding vegetation, land cover, and hydrology. Cardno calibrated the model's representation of a 100-year flood through comparison of the model outputs to the documented flood indicator elevations from the 1997 event. Additional information regarding this modeling effort is available in the technical memo, which is an appendix to the Final Environmental Document.

Staff contacted FEMA to consult about the commenter's request that confidence levels be provided for this floodplain mapping exercise. FEMA clarified that individual hydraulic floodplain mapping efforts completed per FEMA guidance do not report on confidence levels or error bars to ensure model accuracy. Instead, FEMA and the Environmental Protection Agency (EPA) conduct extensive quality control of models prior to including them on the FEMA-approved model list. This FEMA quality control process involves an assessment of model accuracy and confidence levels, such that each individual effort done per FEMA guidance and with a FEMA-approved model, does not report model run-specific accuracy or confidence levels. Based on this guidance received from FEMA, the modeling effort Cardno conducted for the project does not generate the confidence level reporting requested by the commenter, as this type of accuracy assessment has already been completed by FEMA and EPA on the actual model.

In order to provide the highest level of assurance in the updated modeling effort, Cardno incorporated numerous conservative assumptions. The Conservancy requested this approach to reduce uncertainties while providing the highest level of technical surety that the recommended alternative will not adversely impact nearby private properties. Cardno modeled the "worst case" flooding scenario by incorporating several worst case parameter inputs into the model, including but not limited to a high starting lake level, saturated soil conditions, conservative roughness values, and long-duration peak flows. In addition, Cardno only included Project improvements proposed on State lands for the proposed condition model. Because the type of actions proposed on lands not currently under state ownership or control would provide additional flow capacity and conveyance improvements, the proposed condition results as modeled would be the worst-case outcome.

The technical memorandum presents the updated model results for the proposed condition and compares them to the existing condition results in Chapter 7, demonstrating that the Project would not create increase flood elevations on private, developed properties. Based on the verification of the prior analysis results, the guidance from FEMA, the conservative modeling



assumptions employed by Cardno, and additional quantification and spatial detail provided in the output, there is a high level of assurance that the Project will not increase flood hazards to adjacent developed areas.

3. The commenter mentioned that the present suggested alternative is in a “to be determined” state in several important aspects. He specified that the river take out, flood analysis, and the entire section of the river from the U.S. Highway 50 bridge have not been adequately specified in the plan. The commenter stated that several of the proposed enhancements occur on private property making them less clear as to what will actually occur. Commenter also demonstrated support for approving the preferred alternative but requested an additional public review period prior to approving the flood analysis report.

Response: Staff acknowledges that some minor elements of the recommended alternative are not yet determined at a high level of detail, which is typical of environmental documents that analyze various conceptual and complex alternatives. However, the environmental document adequately describes and analyzes the Project Alternatives, providing the public an informed opportunity to comment on the proposed improvements. Please see the response in #1 above in regards to the raft take out issue. In regards to the flood analysis, the Conservancy released the technical flood memorandum to the public on November 18, 2015 for review and consideration (also see response #2 above).

Staff also understands that several of the potential actions in the area downstream of US 50 will only occur if negotiations with the property owners are successful. The actions proposed on private lands are compatible with and supplemental to those proposed on public lands, and would result in synergistic benefits to the river and floodplain ecosystem without adverse impacts to flooding or flood hazards. By presenting and evaluating all of the possible actions within the environmental documents, we have fully disclosed the impacts that could occur if all actions were taken. There would not be additional adverse effects relative to baseline if some or all of the features on private land did not occur.

The proposed improvements in the recommended alternative for these areas are shown in the Alternative 3 schematic design plans, which are part of the draft environmental document (Appendix A). These plans call for the stabilization of the bank just downstream of US 50, the lowering of the floodplain surface in several well defined areas, and the construction of the new pilot channel. The only modification to the schematic plans, which occurred after the draft EIR, was to shift the pilot channel downstream to be constructed only on State lands. This modification was deemed necessary following feedback from some affected private property owners, as they indicated to staff that relocation of the primary river channel was not acceptable on their property.

Staff recognizes that a slight modification to the schematic plans was necessary to adapt to a private property owner’s response, but the revisions to the plans are inconsequential and do not result in new or more substantial impacts. The nature and severity of the impacts analyzed in the environmental document adequately encompass potential impacts of the recommended alternative. The updated pilot river channel location and configuration is consistent with the Alternative 3 concept as it reconnects flows to the middle of the Marsh, and it ensures feasibility

of the Project because it would not require private property owners' permissions to construct. Because this modification is minor and other features proposed on private property were included in the draft environmental document, the public has been provided a sufficient opportunity to comment on the proposed work on private property. The public will have an opportunity to comment at future Board meetings prior to Project construction, however staff feels that the Conservancy has satisfactorily informed the public for the purposes of CEQA and Project approval.