4 COMMENTS AND INDIVIDUAL RESPONSES

4.1 INTRODUCTION

This chapter contains the comment letters received on the February 2013 Draft environmental impact report/environmental impact statement/environmental impact statement (2013 Draft EIR/EIS/EIS) for the Upper Truckee River and Marsh Restoration Project, and the responses to those comments. As noted in Section 4.2, the comments and related responses have been organized to help track the nature and origin of the comments received and considered in the preparation of this Final environmental impact report/environmental impact statement/environmental impact statement (Final EIR/EIS/EIS). Section 4.3 lists each of the commenters on the 2013 Draft EIR/EIS/EIS, their associated agencies or affiliations, and specific assigned letter/comment identifications. Section 4.4 presents each of the comment letters received on the 2013 Draft EIR/EIS/EIS, including comments made during the project's public hearings held March 13 and 27, 2013, and the responses to those comments. An additional response to comments received after the public review period is provided in Appendix C.

4.2 FORMAT OF COMMENTS AND RESPONSES

Comment letters and responses to comments are arranged in the following order:

- Section A: Agencies and Organizations
- Section B: Individuals
- Section C: Public Meetings

Each letter and each comment within a letter have been given an identification number. Responses are numbered so that they correspond to the appropriate comment. Where appropriate, responses are cross-referenced between letters or with a master response.

4.3 LISTS OF COMMENTERS

4.3.1 COMMENTERS ON THE 2013 DRAFT EIR/EIS/EIS

Table 4-1 lists all agencies and persons who submitted comments on the 2013 Draft EIR/EIS/EIS or who commented on that document during the public hearing.

Table 4-1
List of Commenters on the 2013 Draft EIR/EIS/EIS

Letter ID	Commenter	Date
Section A. Agencies and Organizations		
AO1	California State Lands Commission Cy R. Oggins, Chief, Division of Environmental Planning and Management	April 8, 2013
AO2	City of South Lake Tahoe, Public Works Department, Engineering Division Sarah Hussong Johnson, Deputy Director of Public Works/City Engineering	April 29, 2013
AO3	California Department of Fish and Wildlife Tina Bartlett, Regional Manager	April 18, 2013
AO4	U.S. Environmental Protection Agency, Region 9 Kathleen M. Gogorth, Manager, Environmental Review Office, Communities and Ecosystems Division	April 29, 2013

Table 4-1
List of Commenters on the 2013 Draft EIR/EIS/EIS

Letter ID	Commenter	Date
Section A. Agencies, Organizations, and Businesses (cont'd)		
AO5	California Regional Water Quality Control Board, Lahontan Region Alan Miller, P.E., Chief, North Basin Regulatory Unit	April 29, 2013
AO6	California Regional Water Quality Control Board, Lahontan Region Laurie Scribe, Environmental Scientist	April 26, 2013
AO7	U.S. Department of the Interior, National Park Service Christine S. Lehnertz, Regional Director, Pacific West Region	April 26, 2013
AO8	Sierra Club, Tahoe Area Sierra Club Group Laurel Ames	April 6, 2013
AO9	Sky Meadows Homeowners Association, Inc. John A. Hollstien, President	April 2, 2013
AO10	South Tahoe Public Utility District Ivo Bergsohn, P.G., C.Hg., Hydrogeologist Paul Sciuto, P.E., Assistant General Manager	April 8, 2013
AO11	Truckee-Carson Irrigation District Rusty Jardine, Esq., District Manager	March 4, 2013
AO12	Washoe Tribe of Nevada and California Darrel Cruz, CRD/THPO	April 24, 2013
Section B. Individuals		
I1	Mike Alexander	March 14, 2013
I2	Ryan D. Anderson	March 29, 2013
I3	John & Nancy Ball, Amy Tyler Busch, Royce Dunlap	April 5, 2013
I4	Gregory W. Bergner	April 1, 2013
I5	Jean Bergner	April 8, 2013
I6	Jim Carlson	April 8, 2013
I7	Leslynn Catlett	April 7, 2013
I8	Jesse Chamberlain	April 7, 2013
I9	Sarah Chisholm	April 7, 2013
I10	Richard Cromwell	March 27, 2013
I11	Richard DeVries	March 19, 2013
I12	Marilyn Donn	April 7, 2013
I13	Helen Ebert	October 4, 2011/March 12, 2013
I14	Rich Elder	April 8, 2013
I15	Jerome Evans	February 28, 2013
I16	John R. Galea	April 8, 2013
I17	Chris Gallup	April 26, 2013
I18	John Gonzales	March 6, 2013

Table 4-1
List of Commenters on the 2013 Draft EIR/EIS/EIS

Letter ID	Commenter	Date
I19	Ryan & Cataline Goralski	April 6, 2013
I20	Alice Grulich-Jones	March 13, 2013
I21	Lynn Harriman	March 10, 2013
I22	Judith Hildinger	April 8, 2013
I23	Anjanette Hoefer	April 7, 2013
I24	Harley & Tammy Hoy	April 8, 2013
I25	Harley Hoy	April 7, 2013
I26	Tamara Hoy	April 7, 2013
I27	? Hughes	April 6, 2013
I28	Mark Johnson	March 11, 2013
I29	Gary Jones	April 7, 2013
I30	Joanne Jones	March 5, 2013
I31	Jordans & Foudys	April 10, 2013
I32	Scott Karpinen	April 8, 2013
I33	Thomas & Martha Keating	April 21, 2013
I34	Rick Kniesec	April 7, 2013
I35	Linda Kosciolek	April 7, 2013
I36	Stan Kosciolek	April 6, 2013
I37	Michael & Carol Ledesma	April 6, 2013
I38	Kathy & Joe Link	April 8, 2013
I39	Barbara Marsden	April 7, 2013
I40	Lynne Mersereau	March 15, 2013
I41	Gantt & Jayme Miller	April 8, 2013
I42	Gantt & Jayme Miller	April 5, 2013
I43	Cindy Ochoa	April 1, 2013
I44	Peter O'Hara	April 7, 2013
I45	Gene & Ellen Palazzo	April 8, 2013
I46	Gene & Ellen Palazzo	April 7, 2013
I47	Mark A. Pevarnic	April 8, 2013
I48	Greg Poseley	April 26, 2013
I49	Jim & Barbara Randolph	April 8, 2013
I50	Catherine Rosenberg	April 6, 2013
I51	John T. & Catherine M. Rosenberg	April 8, 2013
I52	John T. & Catherine M. Rosenberg	April 24, 2013

Table 4-1
List of Commenters on the 2013 Draft EIR/EIS/EIS

Letter ID	Commenter	Date
I53	Alia Selke	April 7, 2013
I54	Jack Sjolin	March 14, 2013
I55	Sue & Phil Stevenson	April 7, 2013
I56	Bart Sullivan	April 7, 2013
I57	Jeannine Tinsley	April 22, 2013
I58	David Triano	April 7, 2013
I59	Bonnie Turnbull	March 10, 2013
I60	Eduard Verhagen	April 7, 2013
I61	Charles Ward & Kathy Kohberger	April 3, 2013
I62	Russ Wigart	April 18, 2013
I63	Brenda Wyneken	April 8, 2013
I64	Donald & Victoria Archibald	May 11, 2013
Public Meetings		
PM1	Advisory Planning Commission Meeting	March 13, 2013
PM2	TRPA Governing Board Meeting	March 27, 2013

4.4 COMMENTS AND RESPONSES ON THE 2013 DRAFT EIR/EIS/EIS

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SECTION A

Agencies and Organizations

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Letter AO1

STATE OF CALIFORNIA — EDMUND G. BROWN JR., *Governor*

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

JENNIFER LUCCHESI, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
Relay Service From TDD Phone **1-800-735-2929**
from Voice Phone **1-800-735-2922**

Contact Phone: **(916) 574-1890**
Contact FAX: **(916) 574-1885**

April 8, 2013

File Ref: SCH# 2007032099

Scott Carroll
California Tahoe Conservancy
1061 Third Street
South Lake Tahoe, CA 96150

Subject: Upper Truckee River and Marsh Restoration Project Draft Environmental Impact Report/ Environmental Impact Statement/ Environmental Impact Statement (EIR/EIS/EIS)

Dear Mr. Carroll:

The California State Lands Commission (CSLC) staff has reviewed the subject Draft EIR/EIS/EIS for the Upper Truckee River and Marsh Restoration Project (Project), which is being prepared by the California Tahoe Conservancy (CTC), Tahoe Regional Planning Agency (TRPA), and Bureau of Reclamation (Reclamation). CTC, as a California public agency proposing to carry out the project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). TRPA is an EIS lead agency pursuant to Article VII of the Tahoe Regional Planning Compact and Chapter 3 of the TRPA Code of Ordinances, and Reclamation is an EIS lead agency pursuant to the National Environmental Policy Act (NEPA). The CSLC is a trustee agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters. Because the Project involves work on sovereign lands, the CSLC will also act as a responsible agency. AO1-1

CSLC Jurisdiction and Public Trust Lands

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code §§6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its

admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. On navigable non-tidal waterways, including lakes, the State holds fee ownership of the bed of the waterway landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark, except where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

After review of the proposed Project, CSLC staff has determined that the portion of the Project located in Lake Tahoe extends waterward of the low water elevation of 6223 feet, Lake Tahoe Datum, onto State-owned sovereign land under the jurisdiction of the CSLC. The portion of the Project located in the Upper Truckee River may include State-owned sovereign land as described above; however, the extent of the State's sovereign interest at this location has not been determined. Therefore, at this time, a lease and formal authorization for the use of sovereign land will be required from the CSLC for the portion of the Project waterward of the low water mark, in Lake Tahoe. Formal authorization for the portion of the Project located in the Upper Truckee River may be required at such time in the future as the exact extent of the State's fee ownership is determined.

AO1-1 cont.

Project Description

The lead agencies referenced above are pursuing a restoration project along the most downstream reach of the Upper Truckee River, at the mouth of Lake Tahoe. The 592-acre study area is located in South Lake Tahoe, California, and bounded by U.S. Highway 50 (U.S. 50) and the Highland Woods neighborhood to the south, the Al Tahoe neighborhood to the east, Tahoe Islands/Sky Meadows and Tahoe Keys neighborhoods to the west, and Lake Tahoe to the north. The primary purpose of the Project is to restore natural geomorphic processes and ecological functions along this reach of river while providing recreation access.

Several alternative approaches to implementing the Project are being considered, along with the No Project/No Action Alternative. Depending on which alternative is selected, the proposed Project may include a minimum, moderate, or maximum recreation component. Alternatives 1 through 4 are all intended to meet the basic Project objectives, but differ in river restoration treatments and recreation infrastructure that would alter public access. A preferred or proposed alternative has not yet been defined.

1. Alternative 1. Channel Aggradation and Narrowing (Maximum Recreation Infrastructure). To restore the river channel and its connection to the floodplain, Alternative 1 would increase channel length and decrease channel capacity. A key element of this alternative would be the use of engineering elements (primarily structures in the channel) to cause sediment deposition that raises the channel bed and decreases channel capacity, and slightly reduces the capacity of the channel mouth at Lake Tahoe. Alternative 1 would also restore a

naturally-functioning lagoon in the vicinity of the existing Sailing Lagoon, lagoon and wet meadow conditions behind the east end of Barton Beach, floodplain functions at the Tahoe Keys Property Owners Association (TKPOA) Corporation Yard (contingent on TKPOA consent), and sand ridges ("dunes") at Cove East Beach. Alternative 1 provides a potential "maximum" level of recreation infrastructure that includes parking on the west side of the study area adjacent to the Tahoe Keys Marina, a connected system of bicycle paths, boardwalks, observation areas, two kiosks, and signage. Bicycle paths would be Class I/Shared-Use Paths (as described in TRPA and TMPO 2010). Bridges over Trout Creek and the Upper Truckee River (and a boardwalk) would connect the proposed bicycle paths. Bicycle paths would connect to existing regional trails near the study area.

2. Alternative 2, New Channel – West Meadow (Minimum Recreation Infrastructure). To restore the river channel and its connection to the floodplain, Alternative 2 would directly raise the streambed elevation, increase the channel length, and decrease channel capacity. A key element of this alternative would be the excavation of a new river channel that has less capacity than the existing channel. The existing river mouth would be replaced with a new smaller river mouth, similar in size to the historical river mouth prior to dredging. To protect natural resources, a boardwalk connecting the river to East Venice Drive would be constructed. Alternative 2 would provide a "minimum" level of recreation infrastructure that includes a modified Americans with Disabilities Act (ADA)-accessible pedestrian trail to Cove East Beach, five viewpoints, a fishing platform, and signage.

AO1-1 cont.

3. Alternative 3, Middle Marsh Corridor (Moderate Recreation Infrastructure). To restore the river channel and its connection to the floodplain, Alternative 3 would promote the development through natural processes of a new main channel and/or distributary channels in the central portion of the study area. A "pilot" channel, similar to the channel segments constructed under Alternatives 1 and 2, would be constructed from the existing river channel to historical channels in the center of the study area, but no construction would occur in the central or northern portions of the study area. The existing river mouth would be retained with reduced capacity. Like Alternatives 1 and 2, Alternative 3 would restore a natural-functioning lagoon in the vicinity of the Sailing Lagoon and floodplain functions at the TKPOA Corporation Yard and would enhance areas of "core habitat" and forest. Alternative 3 would provide a "moderate" level of recreation infrastructure that includes three pedestrian trails, a bicycle path, a kiosk, an observation area, six viewpoints, a fishing platform, and signs at multiple locations. Alternative 3 would also include a bicycle path and a pedestrian trail near the Highland Woods neighborhood, connected to Mackinaw Road. A pedestrian trail with two segments of boardwalks is also proposed adjacent to the Al Tahoe neighborhood, from Capistrano Avenue to East Barton Beach.

4. Alternative 4, Inset Floodplain (Moderate Recreation Infrastructure). To restore the river channel and its connection to the floodplain, Alternative 4 would lower bank heights by excavating an inset floodplain along much of the river channel,

and by localized cutting and filling to create meanders in the existing straightened reach. The existing river mouth would be retained, and its capacity would not be reduced. Similar to Alternative 3, Alternative 4 would provide a "moderate" level of recreation infrastructure that includes two pedestrian trails, a bicycle path, a kiosk, two observation areas, five viewpoints, and signs at multiple locations.

5. Alternative 5, No Project/No Action. Alternative 5 would not provide any actions to restore the river channel and its connection to the floodplain in the study area. Alternative 5 would not take any direct steps to construct recreation infrastructure elements that alter public access. AO1-1 cont.

Environmental Review

As noted above, the CSLC has jurisdiction over submerged land in the bed of Lake Tahoe lakeward of elevation 6,223-feet, Lake Tahoe Datum, (low water mark) with public trust oversight of the Public Trust Easement located between elevations 6,228.75-feet, Lake Tahoe Datum (high water mark) and 6,223-feet. CSLC staff requests that the CTC consider the following comments on the Draft EIR/EIS/EIS.

General Comments and Project Activities Within CSLC Jurisdiction

1. Description of Alternatives. Section Two, *Description of Alternatives*, would be more informative to public agencies with jurisdictional and/or regulatory boundaries associated with the high and low water marks of Lake Tahoe (such as the CSLC), if it included more reference to lake bottom elevations at and below the high water mark for proposed Project activities along the shorezone of Lake Tahoe. Although this information is available in Appendix C, please incorporate this information in Section Two for description of action alternatives and proposed river mouth and shorezone activities. AO1-2

   Based on review of Section Two and Appendix C, CSLC staff understands that Alternatives 1 through 3 include modifications to the existing and proposed river mouth locations below the low water mark for Lake Tahoe. Collectively, this work appears to include dredging of a new river mouth and backfill of the existing river mouth (Alternative 2), and alteration of the existing river mouth channel and installation of gradient control structures to hold the minimum bed elevation at approximately 6,222-feet (Alternatives 1 through 3). Please be advised that proposed work below the low water mark will require application for and approval of a lease from the CSLC. AO1-3

2. Project Activities Locations. Based on review of the description of alternatives, exhibits, and Appendix C, CSLC staff also understands that the following activities are proposed to occur at or below the high water mark of Lake Tahoe and within the Public Trust Easement:

   a. Installation of bridge footings for the proposed bridge under Alternative 1;
   b. Installation of a boardwalk path east of the river mouth under Alternative 1;
   c. Dune and beach restoration work;

d. Installation of a bike path under Alternative 1;
e. Construction staging areas and earth material haul routes (primarily Alternative 1); and
f. Enclosed protected areas for Tahoe yellow cress.

AO1-3 cont.

Please be advised that the CSLC has oversight authority over activities occurring in the Public Trust Easement to ensure that such activities and uses are consistent with the Public Trust. Prior to commencement of such activities, coordination and review by the CSLC is required. In addition, please note Project applications and plans submitted to the CSLC must clearly identify elevations associated with all proposed work below the high and low water marks of Lake Tahoe.

3. To the extent possible, please provide more description in the *Construction Description* subsection and Table 2-5, for proposed channel diversion techniques for connecting surface flows from the existing channel to newly constructed channels. AO1-4

4. In Table 2-6, *Environmental Commitment 5*, for the Dewatering and Channel Seasoning Plan, Diversion Plan, and Grading and Erosion Control Plan, please include mitigation measures to minimize and avoid discharge of turbid waters into Lake Tahoe. AO1-5

5. As a global edit throughout the entire Draft EIR/EIS/EIS, please use CSLC as the acronym for the California State Lands Commission. AO1-6

Geomorphology and Water Quality

6. Reduced Sediment Supply and Potential Beach Erosion. With regard to Impact 3.9-7 (Alternatives 1 and 3), *Decreased Delivery of Coarse Sediment to Cove East and Barton Beaches*, more discussion is needed to describe the boundaries of the active littoral cell and along-shore drift processes surrounding the Project region of the Lake Tahoe shorezone. It is unclear why the analysis only considers beach and shoreline erosion impacts to shorelines within the Project area. More discussion is needed to address whether there is potential for down-shore and/or off-site shorelines to be affected by reduced sediment supply and resultant beach and shoreline erosion. AO1-7

7. For Alternatives 1 and 3, Mitigation Measure 3.9-7 states that supplemental coarse sediments would be supplied to project area beaches if beach erosion is observed through post Project monitoring. Please provide additional discussion clarifying the proposed sediment source locations.

Compliance, Consultation, and Coordination

8. Requested CSLC Jurisdiction Language. For Section 5, Subsection 5.6.2, please replace the last two paragraphs with the following language. AO1-8

"A project cannot use these state lands unless a lease or authorization is first obtained from the CSLC. Because the bed of Lake Tahoe in the study area is

within CSLC jurisdiction, use of the bed of Lake Tahoe below the low water mark for the Project would require a lease from the CSLC.

The Public Trust Easement in navigable waterways allows lateral access between the high water line and the low water line. At Lake Tahoe, this is the area between the adjudicated ordinary low water mark, at elevation 6,223-feet Lake Tahoe Datum, and the ordinary high water mark, at elevation 6,228.75-feet Lake Tahoe Datum. The CSLC has oversight authority over activities occurring in the Public Trust Easement to ensure that such activities and uses are consistent with the Public Trust. The Conservancy has been coordinating with CSLC as a responsible agency under CEQA during preparation of this DEIR/DEIS/DEIS."

AO1-8 cont.

Thank you for the opportunity to comment on the Draft EIR/EIS/EIS for the Project. As a responsible and trustee agency, the CSLC will need to rely on the Final document for the issuance of any amended/new lease as specified above and, therefore, we request that you consider our comments prior to certification of the EIR/EIS/EIS.

Please send additional information on the Project as plans become finalized, copies of future Project-related documents, including electronic copies of the Final EIR, Mitigation Monitoring and Reporting Program, CEQA Findings and Notice of Determination (NOD) when they become available, and refer questions concerning environmental review to Jason Ramos, Staff Environmental Scientist, at (916) 574-1814 or via e-mail at jason.ramos@slc.ca.gov. For questions concerning CSLC leasing jurisdiction, please contact Beverly Terry, Public Land Manager, at (916) 574-0343, or via e-mail at beverly.terry@slc.ca.gov.

AO1-9

Sincerely,

Cy R. Oggins, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, CA 95812-3044

Jason Ramos, DEPM, CSLC
Beverly Terry, LMD, CSLC
Warren Crunk, Legal, CSLC

Letter	California State Lands Commission
AO1	Cy R. Oggins, Chief Division of Environmental Planning and Management
Response	April 8, 2013

AO1-1 The commenter describes the proposed project and states that the California State Lands Commission (CSLC) is a trustee agency responsible for sovereign lands and navigable waters of the project.

A lease and formal authorization from CSLC are required. A lease application would be completed as part of the permitting process before groundbreaking activities. This comment does not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR/EIS/EIS.

AO1-2 The commenter requests that information about jurisdictional and/or regulatory boundaries be added to the project description.

The wetland and SEZ boundaries have been added to the Preferred Alternative Exhibit 4-1 below. Ordinary high and low water marks are included in Appendix A.

AO1-3 The commenter discusses proposed modifications below the low-water mark and advises that an application and review and approval of a lease are required.

A lease application would be completed as part of the permitting process before groundbreaking activities. This comment does not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR/EIS/EIS.

AO1-4 The commenter requests additional construction information for channel diversion and connection activities.

The measures described in Environmental Commitment 5, "Prepare and Implement Effective Construction Site Management Plans to Minimize Risks of Water Quality Degradation and Impacts to Vegetation," also apply to planning for water isolation in local work areas, bypassing of flows during construction and pre-wetting, and activation of new channels or reconfigured lagoon areas. Environmental Commitment 7, "Prepare and Implement an Aquatic Species Rescue and Relocation Plan," also includes related plans and measures, because the diversions and connection activities must not only protect water quality, but also limit impacts on aquatic resources. Additional detail regarding appropriate measures and permit requirements would be incorporated into the project's water quality protection approach and design of best management practices (BMPs) during final design of the Preferred Alternative. At this point in the design process, the techniques and methods for flow management, diversions, and reconnections at the construction site remain flexible. This flexibility allows for future consideration and development by the contractors and permitting entities of the most effective measures for the field conditions (e.g., lake levels, river flows, weather) expected during the eventual construction year(s).

AO1-5 The commenter requests that additional measures to minimize and avoid discharge of turbid waters into Lake Tahoe be added to the environmental commitments.

Measures to minimize and avoid discharge of turbid waters into Lake Tahoe are included in Environmental Commitment 5, "Prepare and Implement Effective Construction Site Management Plans to Minimize Risks of Water Quality Degradation and Impacts to Vegetation," and in Environmental Commitment 11, "Incorporate Effective Permanent Stormwater Best Management Practices." Additional detail regarding appropriate measures and permit requirements will be

incorporated in the project's water quality protection approach and BMP design during final design of the Preferred Alternative. At this point in the design process, the techniques and methods for managing water quality at the construction site remains somewhat flexible. This flexibility allows for future consideration by the contractors and permitting entities of the most effective measures for the field conditions (e.g., lake levels, river flows, weather) expected during the eventual construction year(s).

AO1-6 The commenter requests that the abbreviation "CSLC" be used for the California State Lands Commission. "CSLC" has been used throughout this Final EIR/EIS/EIS.

The abbreviation is also presented in Chapter 5, "Revisions to the Draft EIR/EIS/EIS."

AO1-7 The commenter requests additional information regarding littoral drift processes, boundaries surrounding the project area, and potential off-site impacts. The commenter also requests additional information regarding sources of coarse sediment if needed for mitigation.

Section 3.9, "Geomorphology and Water Quality," includes a discussion of littoral drift processes and cell boundaries in the project vicinity, including discussion of off-site areas that are within the same littoral cell (extending about 1–2 miles east). The discussion includes a description of the extent of the entire littoral cell, its relationship to other littoral cells of the lake, and the historic trends in shoreline condition (growth versus erosion) throughout the 1900s. In addition, the discussion provides information about the small volume of coarse sediment discharged by the river relative to average annual volumes dredged for the Tahoe Keys navigation channel. The discussion in Section 3.9 also clarifies that predicting the long-term shoreline condition and potential for beach erosion is speculative because of the complex interactions of climate change, lake level fluctuations, and the likely continuation of dredging without replacement that has been permitted by the Lahontan RWQCB. However, the possibility of short-term project impacts during the period of channel adjustments within the marsh is acknowledged. Mitigation Measure 3.9-7 (Alt. 3) would apply to the Preferred Alternative to address the short-term project-related impacts. This measure requires monitoring and adaptive management of the delivery of coarse sediment to Cove East and Barton Beaches. It expressly includes monitoring of coarse-sediment inputs and outputs through the study area, and not just assessment of beach erosion, to allow consideration of potential off-site impacts from retention of excessive coarse sediment in the study area. Adaptive management decisions and possible corrective actions or interventions cannot be determined at this time, but supplementing coarse sediment on beaches or at the nearshore within the Upper Truckee littoral drift cell could be necessary.

To address the commenter's concern about possible environmental impacts related to coarse-sediment sources for use in mitigation, the mitigation measure is modified as with the italicized text below:

> Mitigation Measure 3.9-7 (Alt. 3): Monitor and Adaptively Manage Delivery of Coarse Sediment to Cove East and Barton Beaches.
>
> During the period of channel adjustments following construction, and until the streambed profile attains a relatively continuous slope within the study area, the Conservancy will monitor the supply of coarse sediment entering the study area, deposition within the treated reaches, and beach-face erosion at least once a year. Specifically, the Conservancy will make observations of net deposition or scour during low-water conditions. If substantial coarse-sediment deposition is occurring within large portions of the study area or beach-face erosion has worsened, and coarse-sediment input from upstream has not decreased, the Conservancy will respond with site-specific adaptive management. The Conservancy will develop and implement an adaptive management plan that will

Legend

- Project Boundary
- Existing 1000 ft. River Station
- Existing 100 ft. River Station - Upper Truckee
- Existing 100 ft. River Station - Trout Creek
- Existing Regional Bike Trail

Proposed Habitat Features

- Restored Lagoon
- Restored Meadow
- Tahoe Yellow Cress Restricted Use Area
- Reveg and Streambank Enhancement
- Restored Dune

Proposed River and Floodplain Features

- Low and Bankful Flow Channel
- Potential Low Flow Path
- Active Floodplain
- Removal of Reserve Fill
- Partial Fill of Existing Channel
- Channel Backfill
- Floodplain Areas of Excavation

Proposed Engineered Features

- Lateral Grade Control
- Vertical Grade Control
- Bulkhead/Levee
- Bank Protection
- Storm Water Treatment Area
- Overbank Conveyance Bridge Modification
- Channel Grade Control and Bank Protection

Proposed Public Access Features

- Viewpoint
- Pedestrian Trail
- Fishing Platform
- ADA Accessible
- Observation Area
- Kiosk

Additional Information

- 100 Year Flood Zone
- 500 Year Flood Zone
- LCC 1B (SEZ)
- Wetland Area

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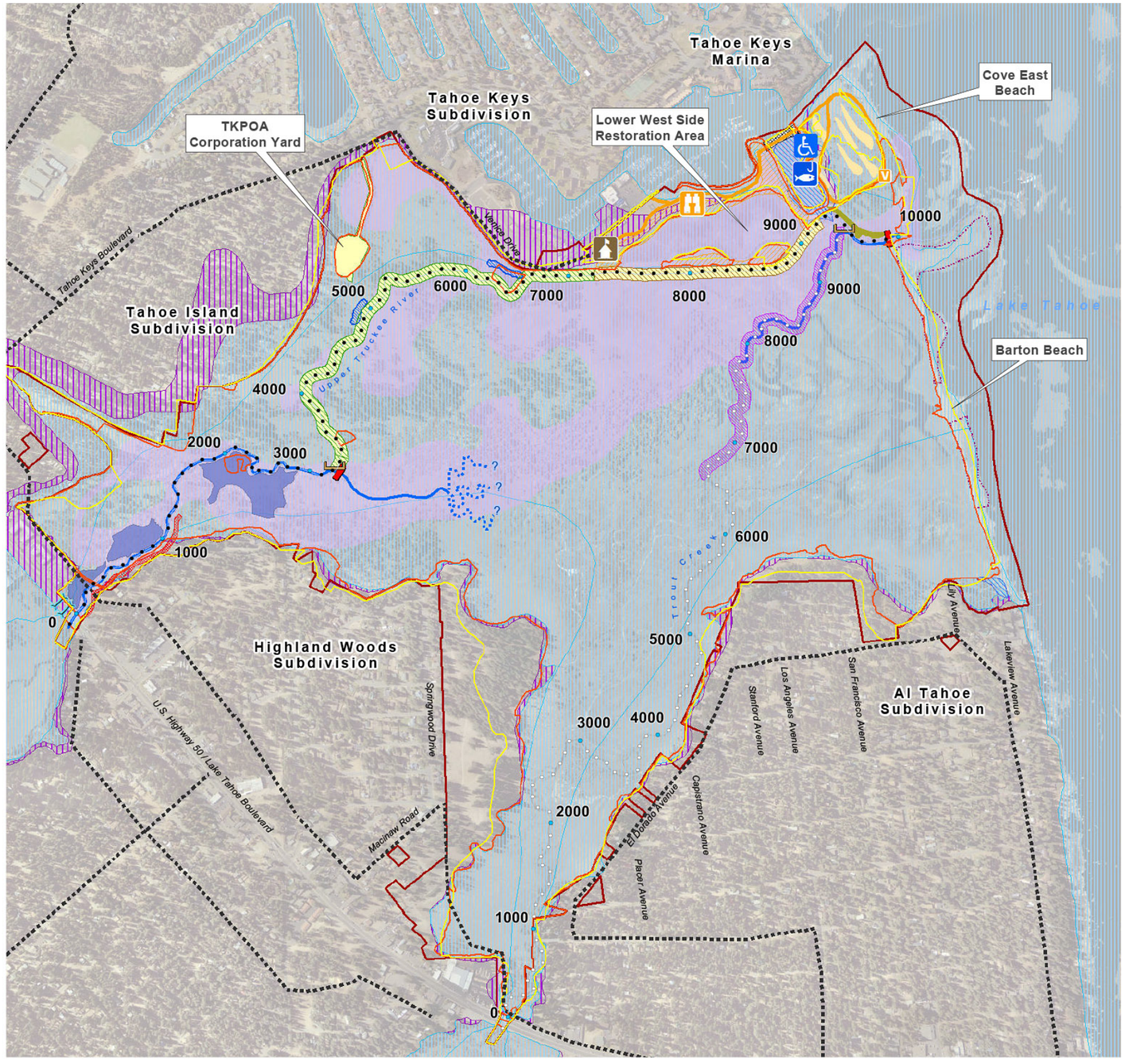

0 500 1,000
Feet

Source: Cardno, 2015

Exhibit 4-1

Existing Regulatory Floodplain, SEZ, and Wetlands Boundaries in Relationship to the Preferred Alternative Features

review and evaluate monitoring data and project conditions and recommend follow-up actions. Such actions could include continued or revised monitoring, corrective actions or interventions, and documentation. *If coarse-sediment supplementation to site beaches or the nearshore is recommended, the coarse sediment shall be similar in lithology, size, and shape to native sands; washed/free of fine sediments or contaminants; and obtained from a permitted borrow/quarry location.*

AO1-8 The commenter requests language replacement for Section 5, Subsection 5.6.2.

The last two paragraphs of Chapter 5, Section 5.2.6 are replaced with the following text:

> A project cannot use these State lands unless a lease or authorization is first obtained from CSLC. Because the bed of Lake Tahoe in the study area is within CSLC jurisdiction, use of the bed of Lake Tahoe below the low-water mark for the project would require a lease from the CSLC.
>
> The public-trust easement in navigable waterways allows lateral access between the high-water line and the low-water line. At Lake Tahoe, this is the area between the adjudicated ordinary low-water mark, at elevation 6,223 feet Lake Tahoe Datum, and the ordinary high-water mark, at elevation 6,228.75 feet Lake Tahoe Datum. The CSLC has oversight authority over activities occurring in the public-trust easement to ensure that such activities and uses are consistent with the public trust. The Conservancy has been coordinating with CSLC as a responsible agency under CEQA during preparation of this EIR/EIS/EIS.

AO1-9 The commenter requests that additional information on the project be sent to CSLC staff as the project proceeds, including electronic copies of the Final EIR/EIS/EIS, mitigation monitoring and reporting program, California Environmental Quality Act (CEQA) findings, and notice of determination.

The California Tahoe Conservancy (Conservancy) would provide copies of electronic copies of this Final EIR/EIS/EIS, the mitigation monitoring and reporting program, CEQA findings, and notice of determination and would continue to coordinate with CSLC throughout project review and permitting as needed. This comment does not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR/EIS/EIS.

Letter AO2

City of South Lake Tahoe

"making a positive difference now"

April 29, 2013

Mr. Scott Carroll
California Tahoe Conservancy
1061 Third Street
South Lake Tahoe, CA 96150

Subject: Draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS)/EIS for the Upper Truckee River and Marsh Restoration Project, South Lake Tahoe, California.

Dear Mr. Carroll:

The City of South Lake Tahoe (City) appreciates the opportunity to comment on the subject document. The City recognizes this as an important project for both the California Tahoe Conservancy (Conservancy) and the community. As such, we appreciate all of the hard work and effort put towards this project by the Conservancy.

The attached letter from October 30, 2006 reflects the City's comments on the Notice of Preparation (NOP) for the document. We ask that the Conservancy verify that the comments included in the letter have been incorporated and/or addressed in the final EIR/EIS/EIS document. Additionally, we understand that there are still some remaining concerns from the residents adjacent to the project area. Consistent with our October 30, 2006 NOP comment letter NOP, we ask that the Conservancy diligently work with the public to address the following: AO2-1

- Provide detailed analysis of the potential traffic impacts of the proposed alternatives, including construction traffic in and around staging areas (Tahoe Island Park subdivision). The analysis should include existing and forecast traffic volumes and levels of service for all public streets and intersections that may be affected and identify potential impacts to bicycle, pedestrian and transit circulation. The analysis should also include potential impacts to the public street infrastructure and maintenance requirements. AO2-2
- Provide detailed analysis of potential noise impacts on surrounding sensitive receptors, including residences. This analysis should apply to both construction related noise and long term affects of noise associated with traffic and recreation. AO2-3
- Provide additional public outreach and notification for residents surrounding and immediately adjacent to the project area that may experience either short term and/or long term impacts as a result of project implementation. Provide ample opportunity for public comment and work to address comments in good faith. Provide a single point of contact for public comment to ensure clear communication with the public. AO2-4

Public Works Department · Services Center · 1052 Tata Lane · South Lake Tahoe, CA 96150-6251 · (530) 542-6030 · (530) 541-3051 FAX

Again, the City appreciates the opportunity to comment on the document. If you have any questions or require further clarification, feel free to contact me at (530) 542-6033.

Regards,

Sarah Hussong Johnson
Deputy Director of Public Works/City Engineer

c: Nancy Kerry, City Manager

Enclosure: October 30, 2006 letter from City of South Lake Tahoe Planning Manager

City of South Lake Tahoe

"making a positive difference now"

October 30, 2006

Jacqui Grandfield, UC Consultant Wildlife Program
California Tahoe Conservancy
1061 Third Street
South Lake Tahoe, CA 96150

Subject: Notice of Preparation of a Draft Environmental Impact Report (EIR)/Environmental Impact Statement (EIS)/EIS for the Upper Truckee River and Marsh Restoration Project, South Lake Tahoe, California.

Dear Mrs. Grandfield:

Thank you for the opportunity for the City of South Lake Tahoe to comment on the NOP for this project. The City has the following comments:

- The proposed project lies within the boundaries of the City of South Lake Tahoe and as a public agency with discretionary approval power over the project the City is a Responsible Agency as defined by CEQA Guidelines §15381.
- As indicated in the NOP the project lies within Plan Areas 100 and 102. The Plan Area Statements (PAS) for these areas list "riding and hiking trails" as a special use that requires the approval of the Special Use Permit by the City. PAS 100 also lists "SEZ Restoration" as a special use.
- As required by City Code §5-17 the project will need Design Review approval from the City. AO2-5
- I have enclosed the application forms for both the Special Use Permit and Design Review as well as an indication of the application fees. Ideally these applications should be submitted along with the draft EIR. Note that the "City Council, upon written request, may waive planning fees for permits required by this chapter for charitable or governmental organizations." (City Code § 32-8.1). If you choose to request a fee waiver please submit a written request to the City Planning Division prior to submitting the applications and expect that it will take approximately one month to schedule the item on the Council Agenda for action.
- The EIR will need to provide detailed analysis of the potential traffic impacts of the proposed alternatives. The analysis should include existing and forecast traffic volumes and levels of service for all public streets and intersections that may be affected and identify potential impacts to bicycle, pedestrian and transit circulation. The analysis should also include potential impacts to the public street AO2-6

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infrastructure and maintenance requirements. This analysis should apply to both construction traffic and long term traffic generated by the project alternatives. A02-6 cont.

- The EIR will need to provide detailed analysis of parking impacts associated with new recreation facilities and opportunities for each alternative. A02-7
- The EIR will need to provide detailed analysis of potential noise impacts on surrounding sensitive receptors, including residences. This analysis should apply to both construction related noise and long term affects of noise associated with traffic and recreation. A02-8
- The EIR will need to provide detailed analysis of existing flooding and drainage conditions and potential changes caused by the project alternatives. A02-9
- The EIR will need to address potential fire hazards associated with changes to the vegetation and fire management. A02-10

Thanks again for the opportunity to comment on the NOP and I look forward to working with you as this project progresses. If you have any questions feel free to contact me. With questions specific to traffic or flood analysis please contact the City Engineering Manager, Stan Hill at 530-542-6039 and with questions specific to fire hazard please contact City Fire Marshal, Ray Zachau at 530-542-6166.

Sincerely,

Hilary Hodges, Planning Manager
(530) 542-6024
hhodges@cityofslt.us

AO2-1 The commenter requests assurance that comments on the 2006 Notice of Preparation were incorporated into the environmental impact report/environmental impact statement/environmental impact statement (EIR/EIS/EIS) and notes public concerns.

The comments are addressed below in responses to Comments AO2-2 through AO2-4.

AO2-2 The commenter suggests a detailed analysis of potential traffic impacts. Traffic and parking impacts of the alternatives are discussed in Section 3.16, "Transportation, Parking, and Circulation," of the 2013 Draft EIR/EIS/EIS.

See Section 3.1.2, "Traffic, Access, and Staging," in Chapter 3, "Master Responses," of this Final EIR/EIS/EIS.

AO2-3 The commenter suggests a detailed noise analysis.

See Section 3.1.3, "Construction Noise," in Chapter 3, "Master Responses," of this Final EIR/EIS/EIS.

AO2-4 The commenter suggests additional public outreach and a single point of contact.

The Conservancy has held numerous outreach events since initial scoping, during development of the alternatives, and during public review. See Section 1.3, "Project History and Planning Context," in Chapter 1 of this Final EIR/EIS/EIS. The point of contact is the following:

State of California
California Tahoe Conservancy
Scott Carroll, Environmental Planner
1061 Third Street
South Lake Tahoe, CA 96150
scott.carroll@tahoe.ca.gov

AO2-5 The commenter states that the City of South Lake Tahoe (CSLT) is a Responsible Agency, that the study area's Plan Area Statements are subject to CSLT code requirements for a Special Use Permit, and that design review is required. The commenter suggests submitting the application with the Draft EIR/EIS/EIS.

An application was not completed along with the Draft EIR/EIS/EIS because a Preferred Alternative was not selected at that time. An application would be completed before construction as part of the permitting process. As described by Environmental Commitment 6, "Obtain and Comply with Federal, State, Regional, and Local Permits," the Conservancy and its contractor would obtain and comply with the terms and conditions of all permits required by applicable federal, State, regional, and local statutes and regulations. The anticipated compliance, consultation, and coordination are described in Chapter 5 of the 2013 Draft EIR/EIS/EIS. This comment does not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR/EIS/EIS.

AO2-6 The commenter suggests a detailed analysis of potential traffic impacts.

Traffic impacts of the alternatives are discussed in Section 3.16, "Transportation, Parking, and Circulation," of the 2013 Draft EIR/EIS/EIS. See Section 3.1.2, "Traffic, Access, and Staging," in Chapter 3, "Master Responses," of this Final EIR/EIS/EIS.

AO2-7 The commenter suggests a detailed analysis of potential parking impacts associated with proposed recreation facilities.

Parking impacts of the alternatives are discussed in Section 3.16, "Transportation, Parking, and Circulation," of the 2013 Draft EIR/EIS/EIS. Recreation impacts are discussed in Section 3.13, "Recreation." Impacts associated with long-term parking needs were found to be less than significant for all action alternatives. The analysis looked at parking needs associated with minimum, moderate, and maximum recreation levels of use and the project included additional parking based on the expected use. Because the Preferred Alternative is proposing moderate infrastructure on the west side of the marsh and no additional recreation access on the east side of the marsh (No Project), parking needs would remain similar to existing conditions with informal parking access.

AO2-8 The commenter suggests a detailed noise analysis.

See Section 3.1.3, "Construction Noise," in Chapter 3, "Master Responses," of this Final EIR/EIS/EIS.

AO2-9 The commenter suggests a detailed flooding and drainage analysis.

Flooding and drainage impacts for each alternative are discussed in Section 3.8, "Hydrology and Flooding," of the 2013 Draft EIR/EIS/EIS. Additional, updated and detailed flood modeling is described in Section 3.1.1, "Flooding and Flooding Hazards," in Chapter 3, "Master Responses," of this Final EIR/EIS/EIS.

AO2-10 The commenter suggests an analysis of potential fire hazards associated with changes to vegetation and fire management.

As described in Section 3.7, "Human Health and Risk of Upset," of the 2013 Draft EIR/EIS/EIS, Jeffrey pine and lodgepole pine forests cover portions of the study area adjacent to the Tahoe Island, Highland Woods, and Al Tahoe subdivisions. Conditions in these forests affect the level of fire hazards in these adjacent neighborhoods. The Conservancy implements treatments to reduce the fire hazards posed by forest vegetation in the study area. Treatments include removing shrubs and trees to increase the spacing between tree crowns and the distance between understory vegetation (i.e., herbaceous plants, shrubs, and smaller tree saplings) and the tree canopy, and to reduce the total amount of vegetation and dead wood (USFS et al. 2014). Such treatments reduce the severity and rate of spread of a fire.

Forest vegetation on Conservancy property that poses fuel hazards is removed by the Conservancy. Since the Conservancy acquired majority ownership of the study area in 2000, fuel reduction efforts have focused primarily on removal of vegetation reported by citizens as dead or dying. Citizen requests for removal of vegetation in the study area perceived to be a potential fuel hazard increased after the Angora fire (June 2007), prompting the Conservancy to include the study area on the agency's fuel hazard reduction list in Summer 2007. The Conservancy flags vegetation in the study area and on nearby Conservancy-owned parcels, such as those parcels scattered among the privately owned residential parcels in the Al Tahoe neighborhood. Once

vegetation is marked, the Conservancy is responsible for removal of fuels and periodic maintenance. These practices would continue under the Preferred Alternative.

Furthermore, one of the primary benefits of the Preferred Alternative is surface-groundwater connectivity and a higher groundwater table, which would create a wetter environment over a larger portion of the marsh, further reducing fire risks.

As described in Environmental Commitment 9, the Conservancy would develop and implement a fire prevention and management plan to minimize the risk of accidental ignition of wildland fires during construction.

Letter AO3

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Region 2
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director

April 18, 2013

Scott Carroll
Associate Environmental Planner
California Tahoe Conservancy
1061 Third Street
South Lake Tahoe, CA 96150

Subject: Comments on the Upper Truckee River and Marsh Restoration Project Draft Environmental Impact Report, SCH# 2007032099, El Dorado County

Dear Mr. Carroll:

The California Department of Fish and Wildlife (Department), appreciates the opportunity to provide comments on the Upper Truckee River and Marsh Restoration Project (Project) draft Environmental Impact Report (DEIR) dated February 2013. Pursuant to §15082(b) of the California Environmental Quality Act (CEQA) Guidelines, the Department offers the following responses to the DEIR in our roles both as a trustee agency and a responsible agency. As the trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife and native plants and the habitat necessary to sustain their populations. As a responsible agency, the Department administers the California Endangered Species Act (CESA), issues Lake and Streambed Alteration Agreements (LSAA), and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife public trust resources.

AO3-1

The 592-acre study area is located in South Lake Tahoe, bounded by U.S. Highway 50 and the Highland Woods neighborhood to the south, the Al Tahoe neighborhood to the east, Tahoe Islands/Sky Meadows and Tahoe Keys neighborhood to the west, and Lake Tahoe to the north. It consists of parcels owned by the California Tahoe Conservancy (CTC), the City of South Lake Tahoe, the California Department of Transportation, and private land owners. It includes the downstream reaches of Trout Creek and the Upper Truckee River (UTR), adjacent wetland and upland habitat (Upper Truckee Marsh), and the Lower West Side Wetlands Restoration Project site. The purpose of the Project is to restore natural geomorphic processes and ecological functions in the lowest reach of the UTR, improve ecological values, provide public access consistent with other objectives, and help reduce the UTR's discharge of nutrients and sediment into Lake Tahoe. Four alternative approaches to implementing the proposed Project are being considered, along with the No Project/No Action Alternative.

Conserving California's Wildlife Since 1870

Impacts to Fish Passage

The impact analysis in the DEIR identifies potentially significant and unavoidable long-term impacts to fish passage and migration at the mouth of the UTR associated with floodplain restoration actions proposed in Alternative 3. Under this Alternative, construction of a small pilot channel intended to convey flows from the UTR into multiple small channels that cross the marsh complex before re-entering the UTR upstream of Lake Tahoe has the potential to result in long-term disruption of fish passage until new channel(s) form connecting the river to the lake. Additionally, this Alternative could result in the generation of a natural barrier beach at the mouth of the UTR that during low flows could seasonally block passage from the river to the lake for prolonged periods of time. Fish species most at risk under these scenarios include Mountain whitefish that could be seasonally restricted from access to spawning habitat in the UTR by the presence of sediment barriers/insufficient flows, in addition to other native species such as Lahontan redside *(Richardsonius egregious)*, Tui chub *(Gila bicolor)*, Lahontan speckled dace *(Rhinichthys osculus)*, Tahoe sucker *(Catostomus tahoensis)*, mountain sucker *(Catostomus platyrhynchus)*, Lahontan cutthroat trout *(Oncorhynchus clarki henshawi)*, and Paiute sculpin *(Cottus beldingi)*, that would be at risk of stranding on the marsh surface during winter/spring flow events when flows are routed through the pilot channel. AQ3-2

Fish and Game Code §5901 states that "it is unlawful to construct or maintain in any stream…any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish up and down stream". The Department believes that the design elements considered in Alternative 3 may constitute a violation of this Fish and Game Code Section should creation of the pilot channel result in disruption of fish passage between the UTR and Lake Tahoe. Therefore, the Department recommends that Alternative 3 not be considered for adoption by the CTC unless reasonable design changes can be incorporated to ensure viable fish passage remains under low flow conditions.

LSAA Notification

The DEIR identifies potential impacts to the UTR, the Upper Truckee Marsh, mouth of the UTR, and the Lake Tahoe shoreline associated with implementation of the four Alternatives. Pursuant to Fish and Game Code §1600 *et seq*, if a project will result in the substantial modification to a lake or streambed, bank, or channel, the Department must be notified, and in a majority of cases, a LSAA issued. Notification to the Department is required for proposed projects that may: 1) divert, obstruct, or change the natural flow or the bed, channel or bank of any river, stream, or lake; 2) use material from a streambed; or 3) result in the disposal or deposition of debris, waste, or other material where it may pass into any river, stream, or lake. The notification requirement AQ3-3

applies to any work undertaken in or near a river, stream, or lake that flows at least intermittently through a bed or channel. This includes ephemeral streams and water courses.

The Department is the "responsible agency" under CEQA for the issuance of LSAAs. When notified, the Department will determine whether or not a LSAA is required. This LSAA would include conditions to protect fish and wildlife resources, habitat, and water quality that are mutually agreed to by the Department and the project proponent. The Department is required by CEQA Guidelines Section 15096 to review the CEQA document certified by the lead agency approving the project and, from that review, make certain findings concerning the activity's potential to cause significant, adverse environmental effects. It is therefore important that the Final EIR document address all of the potential biological streambed alteration impacts including potential violation of Fish and Game Code §5901, and propose feasible mitigation. The Final EIR document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for completion of the agreement. To obtain information about the LSAA notification process, please access our website at http://www.dfg.ca.gov/habcon/1600/; or to request a notification package, contact the Lake and Streambed Alteration Program at R2LSA@wildlife.ca.gov or (916) 358-2885.

Early notification to the Department is recommended. Specific conditions in the LSAA may include site-specific conditions for construction activities and timing. Any work subject to the LSAA may not be initiated until certification of the CEQA document and payment of the appropriate fees. Obtaining a LSAA does not satisfy the requirements of either the State or federal Endangered Species Act.

AO3-3 cont.

CESA Permit

The DEIR identifies potential impacts to Tahoe yellow cress *(Rorippa subumbellata)*, bald eagle *(Haliaeetus leucocephalus)*, and willow flycatcher *(Empidonax traillii)*, species listed as Endangered under CESA. If it is not possible to avoid impacts to these species, any activities resulting in the unavoidable "take" of a State-listed plant or animal species may require the Project proponent to obtain a permit from the Department pursuant to Section 2081 of the Fish and Game Code.

CESA permits are issued to conserve, protect, enhance, and restore State-listed threatened or endangered species and their habitats. A CESA permit should be obtained, if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA permit. Candidate species are protected under CESA to the same extent as species listed as endangered or threatened (Fish and Game Code § 2085.)

A CESA permit may only be obtained if the impacts of the authorized take of the species is minimized and fully mitigated, and adequate funding has been ensured to implement the mitigation measures. The Department may only issue a CESA permit if the Department determines that issuance of the permit does not jeopardize the continued existence of the species. The Department will make this determination based on the best scientific information available, and shall include consideration of the species' capability to survive and reproduce, including the species known population trends and known threats to the species. Issuance of a CESA permit may take up to 180 days from receipt of an application from the applicant.

Issuance of a CESA permit is subject to CEQA documentation; therefore, the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. Any work subject to a CESA permit may not be initiated until certification of the CEQA document and payment of the appropriate fees.

AO3-3 cont.

Pursuant to Public Resources Code Sections 21092 and 21092.2, the Department requests written notification of proposed actions and pending decisions regarding this project. Written notifications should be directed to this office.

We appreciate your consideration of our comments. Department personnel are available for consultation regarding biological resources, permitting processes, and strategies to minimize impacts. If you have questions please contact Patrick Moeszinger, Environmental Scientist, at 916-358-2850 or e-mail at Patrick.moeszinger@wildlife.ca.gov.

Sincerely,

Tina Bartlett
Regional Manager

ec: Jeff Drongesen
Jennifer Navicky
Patrick Moeszinger
Department of Fish and Wildlife

Tahoe Regional Planning Agency
trpa@trpa.org

State Clearinghouse

AO3-1 The commenter states that "the impact analysis in the DEIR identifies potentially significant and unavoidable long-term impacts to fish passage and migration at the mouth of the Upper Truckee River associated with floodplain restoration actions proposed in Alternative 3 [and the Preferred Alternative]." The commenter states that these impacts on fish passage would be in violation of Fish and Wildlife Code Section 5901.

The Preferred Alternative would allow the connection between Lake Tahoe and the Upper Truckee River to form through natural geomorphic processes within the marsh and reconnect the lagoon to the river. It would restore a close approximation of pre-disturbance hydrologic and geomorphic processes and conditions within the marsh, to which the native species were adapted. The formation of multiple channels, back-beach lagoon arms, debris jams, and sandbars at the mouth of the river are all possible outcomes. Some features could be temporary, and others could persist for months or years, depending on river flow and lake level conditions. When present, such features have the potential to restrict or prevent fish passage into the river under low-water conditions. Autumn spawning species, such as mountain whitefish (*Prosopium williamsoni*), could be blocked from spawning if a sandbar or other barrier were to form at the mouth or within the marsh. CDFW staff members performed a field survey of the area extending from the proposed Alternative 3 pilot channel to Lake Tahoe on January 29, 2014. They concluded that seasonal impacts of Alternative 3 on fish passage would likely be minimal (Conservancy and CDFW 2014). The formation of a sandbar completely impeding access to the Upper Truckee River for migrating fish would be unlikely except during the driest years, and such a blockage would be brief. Debris jams could occur incidentally after high-flow events, but because of the unconfined and complex nature of the Upper Truckee River mouth, they would be unlikely to block fish passage for very long. The negative impacts of occasional brief river mouth blockages on fish populations would be mitigated and outweighed by the large-scale beneficial impacts of increased marsh and floodplain habitat. Brief temporary impediments to fish passage at the mouth of the Upper Truckee River could be eliminated or mitigated as they occur through adaptive management. After the field meeting, CDFW staff members did not see a significant problem with permitting restoration elements of Alternative 3, and the Conservancy and CDFW agreed to continue to communicate during final design and implementation to minimize risks to fish.

AO3-2 The commenter states that pursuant to Fish and Game Code Section 1600 et seq., the project requires a Lake and Streambed Alteration Agreement (LSAA) permit.

Issuance of the LSAA permit would depend on resolution of fish passage issues described in response to Comment AO3-1 and California Endangered Species Act (CESA) issues pertaining to Tahoe yellow cress (*Rorippa subumbellata*), bald eagle (*Haliaeetus leucocephalus*), and willow flycatcher (*Empidonax traillii*). Unavoidable "take" of a State-listed plant or animal species would require the project proponent to obtain a permit from the California Department of Fish and Wildlife pursuant to Section 2081 of the California Fish and Game Code.

AO3-3 The commenter summarizes the Lake and Streambed Alteration Program and CESA requirement for authorized take and mitigating impacts.

The comment is noted. See Chapter 5, "Revisions to the Draft EIR/EIS/EIS." Section 5.2.3 has been updated to reflect the information. Additionally, see responses to Comments AO3-1 and AO3-2 above.

Letter AO4

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

APR 29 2013

Mymie Mayville
Bureau of Reclamation
P.O. Box 4310
Stateline, NV 98449
Attn: Upper Truckee River DEIS

Subject: Draft Environmental Impact Statement for the Upper Truckee River and Marsh Restoration Project, El Dorado County, California (CEQ#20130049)

Dear Ms. Mayville:

The Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (EIS) for the above project. Our review and comments are pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

The Draft EIS clearly demonstrates the need to restore the hydrologic functionality of the Upper Truckee River by reconnecting the floodplain, meadow, and riparian areas with surface and groundwater. Lake Tahoe water quality studies have identified the Upper Truckee River as the largest source of fine sediment from stream bank erosion (p. 3.9-13). The proposed restoration would substantially reduce the volume of fine sediment and nutrients entering Lake Tahoe, thereby supporting key water quality goals of the Tahoe Regional Planning Agency, Lahontan Regional Water Quality Control Board, and Lake Tahoe Environmental Improvement Program. EPA supports restoration of the Upper Truckee River. AO4-1

Alternatives 1, 2, 3 and 4 would decrease channel capacity and reestablish the channel's connection to an active floodplain. Reactivation of the floodplain and return of the river to more natural river processes would significantly reduce peak flows, increase the frequency of overbank flooding and floodplain storage, and enhance riparian and meadow ecosystems. We note that a preferred alternative has not been identified, but Alternative 2, New Channel West Meadow has been recognized as the environmentally superior alternative under CEQA.

We urge the action agencies to consider implementation of the alternative that maximizes ecosystem benefits. Based on our review of the Draft EIS, we have rated the project and document as *Lack of Objections* (LO). Please see the enclosed "Summary of EPA Rating Definitions." The enclosed detailed comments provide recommendations for additional documentation that should be included in the Final EIS regarding Section 404 Clean Water Act compliance, mitigation and monitoring, and cumulative impact analysis. AO4-2

We appreciate the opportunity to review this Draft EIS. Should you have any questions regarding our comments, please contact me at (415) 972-3521, or contact Stephanie Skophammer, the lead reviewer for the project. Stephanie can be reached at (415) 972-3098 or skophammer.stephanie@epa.gov.

AO4-2 cont.

Sincerely,

Connell Dunning

FOR Kathleen Martyn Goforth, Manager
Environmental Review Office
Communities and Ecosystems Division

Enclosures: Summary of EPA Rating Definitions
EPA Detailed Comments

cc: Scott Carroll, California Tahoe Conservancy
Kristine Hansen, US Army Corps of Engineers
Adam Lewandowski, Tahoe Regional Planning Agency
Robert Larsen, Lahontan Regional Water Quality Control Board
Cyndie Walchk, California State Parks
Theresa Cody, Forest Service Lake Tahoe Basin Management Unit

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

AO4-2 cont.

ADEQUACY OF THE IMPACT STATEMENT

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.

Clean Water Act Section 404

The Draft EIS states that formal wetland delineations have not been completed for the study but that much of the study area falls in the floodplain and would likely be classified as wetlands (p. 3.4-38). The Conservancy is expected to coordinate with the US Army Corps of Engineers (Corps) to obtain appropriate permits before construction would begin (p. 5-3).

AO4-3

Recommendations:

We recommend the Final EIS include additional information regarding the 404 permitting process for this project. The current status of the wetlands delineation and the ongoing consultation should be described and documented. We urge California State Parks, TRPA, and Bureau of Reclamation to work with the Sacramento Office of the Corps, as soon as possible, to ensure Section 404 compliance for this project.

Mitigation and Monitoring

To address potential local construction erosion effects, the action alternatives include mitigation measures requiring bed and bank stabilization measures at and immediately upstream and downstream of bridge removal sites and downstream of treated reaches (p. 3.8- 2). Best Management Practices (BMPs) are included in Table 2-6 Environmental Commitments.

AO4-4

Recommendation:

The Final EIS should include additional information on the ability of proposed mitigation measures to provide long-term avoidance and reduction of local erosion effects of the proposed action. We recommend including a chart describing mitigation performance standards, monitoring and reporting requirements, responsible parties, implementation schedule, and maintenance requirements for these measures.

Alternative 3 will include design features where portions of the channel would be directly modified with the expectation that natural river processes would return and achieve channel equilibrium over time (p. 2-11). Mitigation measures and monitoring are proposed to minimize short-term effects of construction (p. 3.9-61). However, it is not clear whether monitoring is included to verify the design assumption that natural processes of erosion and deposition would establish appropriate channel dimensions over time in areas where the stream is not fully reconstructed.

AO4-5

Recommendation:

We recommend the proposed action include validation monitoring to verify whether the restored river channel is adapting as predicted to the actively reconfigured channel.

Cumulative Impact Analysis

EPA appreciates the cumulative impact discussion beginning on page 3.18-1 of the document. Given the dozens of projects underway and being proposed in the Upper Truckee and Trout Creek watershed, it is especially important that all agencies (Forest Service, the Conservancy, Reclamation, CA State Parks, and others) are coordinating their efforts as much as possible. EPA is aware of the Upper Truckee River Restoration Strategy Draft Report which summarizes these efforts and on-going studies.

AO4-6

Recommendation:

Table 2 of the Strategy document refers to a comprehensive list of Upper Truckee river projects with corresponding acreages of floodplain and river restoration. We recommend such a table, as well as a map, be included in the Final EIS to inform the cumulative impact analysis regarding specific acreages and approximate length of channel restored.

A046 cont.

AO4-1 The commenter summarizes the proposed restoration and notes the environmentally superior alternative.

This comment does not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR/EIS/EIS.

AO4-2 The commenter rates the project and document as *Lack of Objections* (LO), presents definitions, and refers the reader to recommendations discussed below.

This comment does not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR/EIS/EIS.

AO4-3 The commenter recommends including additional information regarding 404 permitting in the Final EIR/EIR/EIS.

The entire study area was surveyed in 2013/2014 for determining waters of the United States and waters of the State. Part of the study area has been delineated (SPK-2014-00321). The larger area delineation will be submitted to the U.S. Army Corps of Engineers for determination in 2016.

AO4-4 The commenter suggests a chart describing mitigation performance standards, monitoring and reporting requirements, responsible parties, implementation schedule, and maintenance requirements.

A monitoring, maintenance, and reporting program has been developed outlining the mitigation requirements which includes mitigation performance standards, monitoring and reporting requirements, responsible parties, an implementation schedule, and maintenance requirements. See Appendix D of this Final EIR/EIS/EIS.

AO4-5 The commenter suggests validation monitoring for Alternative 3 restoration efforts to verify that the restored river channel is adapting as predicted.

The Conservancy will conduct compliance monitoring to document that mitigation requirements and permit reporting requirements are satisfied. Additionally, the Conservancy will perform monitoring to inform adaptive management decisions, which will include consideration of how well the project design and implementation is functioning relative to design objectives. Although the Conservancy is supportive of the type of scientific validation monitoring suggested by the commenter and participates in such evaluations as part of grant-funded research programs, this comment does not raise issues regarding the adequacy, accuracy, or completeness of the Draft EIR/EIS/EIS.

AO4-6 The commenter recommends that an updated table and map of projects included in the cumulative impact analysis be provided in the final document, including acreages and lengths of channel restored.

An updated table of cumulative projects is presented in Chapter 5, “Revisions to the Draft EIR/EIS/EIS.” Data available to present a map of acreages and lengths of channel of each project are beyond the scope of this EIR/EIS/EIS.