

California Tahoe Conservancy
Agenda Item 7
May 19, 2011

**LICENSE AGREEMENTS AND TRANSFER OF JURISDICTION
AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION**

Summary: Staff recommends authorization to enter into license agreements and Transfer of Jurisdiction Agreements with the California Department of Transportation to facilitate the implementation of water quality improvement projects along several state highways in the Tahoe Basin.

Location: The parcels are located adjacent to State Routes 28 and 89 in Placer County and State Route 89 and U.S. Highway 50 in El Dorado County. The specific Conservancy parcels that will be included in the agreements include Placer County Assessor Parcel Numbers 098-154-009, 098-173-003, 098-330-004, 115-030-033, and El Dorado County Assessor Parcel Numbers 016-292-08, 016-292-09, 016-292-10, 016-292-26, 016-292-27, 016-292-28, 016-292-29, 018-060-03, 023-430-40, 023-532-01, 023-532-02, 032-191-04, 034-323-02, and 034-401-15. (Attachment 1).

Fiscal Summary: The proposed authorization would result in incidental staff costs.

Recommended Action: Adopt Resolution 11-05-01 (Attachment 2) authorizing license agreements and Transfer of Jurisdiction Agreements with Caltrans.

Background

The California Department of Transportation (Caltrans) has been planning, designing, and constructing several water quality improvement projects to address stormwater runoff from the state highways within the Tahoe Basin. In addition to water quality improvements, the projects often also provide Class II bike lanes, traffic improvements such as striping and intersection lighting, and pavement overlays. All projects are designated under the Environmental Improvement Program (EIP). The subject parcels are located in the project areas for EIP Project Numbers 993, 994, 995, 996, and 998.

During the planning and design of these water quality improvement projects, Caltrans looks for opportunities to use Conservancy-owned parcels for water quality improvements, such as infiltration basins. To assist in evaluating whether parcels might be acceptable for these water quality improvements, Caltrans installs ground water monitoring wells and monitors these wells for a period of several years.

Project Description

Caltrans has identified several needs related to the Conservancy-owned parcels. Conservancy staff has reviewed the requests and recommends that the Board authorize four requests:

1. The Conservancy Board authorized a Caltrans license agreement in 2006 for monitoring work on fifteen of the subject parcels, namely Placer County Assessor Parcel Number (APN) 098-154-009 and El Dorado County APNs 016-292-08, 016-292-09, 016-292-10, 016-292-26, 016-292-27, 016-292-28, 016-292-29, 018-060-03, 023-430-40, 023-532-01, 023-532-02, 032-191-04, 034-323-02, and 034-401-15. Caltrans, however, had been unable to obtain the monitoring data required to determine if the parcels meet the criteria to allow the installation of infiltration basins on them due to below-normal precipitation levels over the past several years. The agreement expired in October 2009, but the monitoring wells remained in place. Caltrans is now requesting that the license agreement be renewed until October 15, 2013 in order to attempt to gather the information to meet the criteria. It will then remove the monitoring wells and seal the boreholes. Conservancy staff supports this request.
2. Caltrans is in the final design phase for the Placer 89 EIP Project along State Route 89 in Placer County. This project proposes to utilize Placer County APN 098-330-004 to assist in the construction of curb and gutter at the corner of State Highway 89 and Lodge Drive in Homewood. The curb and gutter will be within Caltrans' highway ownership; however, in order to construct the curb and gutter, Caltrans will temporarily impact approximately 180 square feet of the Conservancy parcel behind the improvement. Upon completion of the curb and gutter construction, Caltrans will restore and revegetate the portion of the Conservancy parcel it disturbed. Staff recommends that the Board authorize a license agreement to accommodate this temporary use by Caltrans.
3. The Placer 89 EIP also proposes to relocate an existing telephone pole and its associated guy anchor onto Placer County APN 098-173-003. This permanent relocation of the telephone pole and guy anchor is required in order to construct water quality

improvements and meet safety requirements along the highway. Staff recommends that the Conservancy enter into a Transfer of Jurisdiction Agreement with Caltrans to transfer the right to use approximately 160 square feet of this parcel to accommodate the relocation. A Transfer of Jurisdiction and Control is an easement between two state agencies or departments to transfer rights to State owned land.

4. Caltrans began construction of the Placer 28 EIP in Fall 2008. During the construction of this project, Caltrans discovered that a pedestrian light standard shown on the plans was mistakenly located within an existing sidewalk. Caltrans requests that the Conservancy allow this light standard and its required electrical service to be relocated onto Placer County APN 115-030-033. This Conservancy parcel is located at the corner of State Route 28 and Onyx Street in the community of Carnelian Bay and is the site of the Carnelian West Restoration Project constructed by the Conservancy. The relocation would require a transfer of jurisdiction agreement between Caltrans and the Conservancy for up to 74 square feet. Conservancy staff worked with Caltrans staff to ensure that the proposed improvements would not negatively affect the Carnelian West Restoration Project.

Project Implementation

If the Board approves the four different recommendations to renew a pre-existing license agreement, enter into a new license agreement, and enter into two new Transfer of Jurisdiction Agreements, staff will take the necessary actions to implement the agreements. No fees are proposed for these agreements, since the activities and improvements support public water quality improvement projects. Caltrans will provide the Conservancy with the results from the monitoring wells. In addition, Caltrans will be required to provide the Conservancy with the legal descriptions and other necessary exhibits illustrating the improvements for the two Transfer of Jurisdiction Agreements. The license agreements and transfer agreements include provisions related to permitting, restoration, insurance, and indemnification.

Project Evaluation

The proposed grant of access rights and transfers of jurisdictions across Conservancy property is consistent with the Conservancy's Leasing and Licensing Guidelines. The projects' objectives are consistent with the purposes of acquisition and will not result in adverse impacts to the parcels. Caltrans' projects support regional planning and resource management objectives in the Lake Tahoe Basin and are being pursued in accordance with the Environmental Improvement Program. The proposed projects also further the Conservancy's management objectives by coordinating management with

other agencies to facilitate more responsive, cost-effective, and comprehensive arrangements for achieving water quality objectives.

Consistency with the Conservancy's Enabling Legislation

The recommended licenses and transfer of jurisdiction agreements are consistent with the Conservancy's enabling legislation. Specifically, Government Code Section 66907.8 authorizes the Conservancy to lease, rent, sell, exchange, or otherwise transfer any interest in real property or interest therein to local public agencies, individuals, corporate entities, or partnerships for management purposes. Under Government Code Section 66907.9, the Conservancy is authorized to initiate, negotiate, and participate in agreements for the management of land under its ownership or control with local public agencies, state agencies, federal agencies, nonprofit organizations, individuals, corporate entities or partnerships, and to enter into any other agreements authorized by state or federal law.

Compliance with the California Environmental Quality Act (CEQA)

Given the activities being recommended, there are three different environmental findings that the Board must make. The background information for each of these findings is provided below.

Pursuant to State CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.), certain classes of activities are statutorily exempt from CEQA or are exempt because they have been determined by the Secretary for Resources to have no significant effect on the environment. Pursuant to Public Resources Code section 21082, the Conservancy has also adopted regulations to implement, interpret, and make specific, the provisions of CEQA. Cal. Code Regs., title 14, § 12100 et seq. Staff has evaluated the license agreements for monitoring wells, and has found it to be exempt under CEQA. This project qualifies for a categorical exemption under State CEQA Guidelines, section 15306 (information collection) and for a statutory exemption under section 15262 (feasibility and planning studies). A Notice of Exemption (NOE) has been drafted for the project (Attachment 3).

Caltrans, acting as the Lead Agency, prepared an Initial Study (IS) and Mitigated Negative Declaration (MND) for the Placer 89 EIP to comply with CEQA. Caltrans adopted the MND on June 19, 2006, and a Notice of Determination (NOD) was filed on June 21, 2006.

Staff has reviewed the MND and determined that an Addendum needed to be written to address the proposed pole relocation and guy anchor. On April 29, 2011 the Conservancy prepared an Addendum to the MND to comply with CEQA. The Addendum determined that there were no substantial changes in the environmental effects of the Project, that no new information of substantial importance has arisen, and that there has been no substantial change to the circumstances under which the Project is being undertaken. The Addendum also determined that the mitigation measures in the adopted MND remain the same.

The NOD, MND, Addendum and record of project approval may be examined at Caltrans' offices at 703 B Street, Marysville, California 95901. A copy of the IS, MND, and Addendum have been provided to the Board on an attached CD and are available for public review at the Conservancy office, 1061 Third Street, South Lake Tahoe, California 96150 (Attachment 4).

Staff reviewed the MND and Addendum and believes that the improvements proposed have been adequately analyzed in the document. Staff has determined that the project, as proposed, would not cause a significant effect on the environment. Since completion of the MND and Addendum, there is no new information, substantial changes to the proposed project, or changes to project implementation, which would involve any new significant effects which were not analyzed in the MND. As a result, no new mitigation measures are needed to find that the project, as mitigated, would have no significant environmental impacts. The mitigation measures for the project can be found in Appendix E of the MND.

Staff recommends the Board review the MND and Addendum and make the findings as set forth in the attached resolution. If the Board adopts the MND and authorizes the license agreement and Transfer of Jurisdiction Agreement associated with the Placer 89 EIP, staff will file an NOD with the State Clearinghouse pursuant to State CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.), section 15096. Attachment 5 contains the Conservancy's proposed NOD.

Caltrans, acting as the Lead Agency, prepared an IS and MND for the State Route 28 project to comply with CEQA. Caltrans adopted the MND on October 25, 2005, and a NOD was filed on October 28, 2005.

On April 29, 2011 the Conservancy prepared an Addendum to the MND to comply with CEQA. The Addendum addressed modifications to the light standard's location. The Addendum determined that there were no substantial changes in the environmental effects of the project, that no new information of substantial importance has arisen, and

that there has been no substantial change to the circumstances under which the project is being undertaken. The Addendum also determined that the mitigation measures in the adopted MND remain the same. The NOD, MND, Addendum, and record of project approval may be examined at Caltrans' offices at 703 B Street, Marysville, California 95901.

Copies of the IS, MND, and Addendum have been provided to the Board on an attached CD and are available for public review at the Conservancy office, 1061 Third Street, South Lake Tahoe, California 96150 (Attachment 4).

Staff has reviewed the MND and Addendum and believes the improvements proposed have been adequately analyzed in this document. Staff has determined that the project, as proposed, would not cause a significant effect on the environment. Since completion of the MND and Addendum, there is no new information, substantial changes to the proposed project, or changes to project implementation, which would involve any new significant effects which were not analyzed in the MND. As a result, no new mitigation measures are needed to find that the project, as mitigated, would have no significant environmental impacts. A summary of the mitigation measures can be found on pages 140-143 of the MND.

Staff recommends that the Board review the MND and Addendum and make the findings as set forth in the attached resolution. If the Board adopts the MND and authorizes the Transfer of Jurisdiction Agreement for the Placer 28 EIP, staff will file an NOD with the State Clearinghouse pursuant to California CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.), section 15096. Attachment 6 contains the Conservancy's proposed NOD.

List of Attachments:

Attachment 1 – Caltrans License Agreements and Transfers of Jurisdiction Map

Attachment 2 – Resolution 11-05-01

Attachment 3 – Notice of Exemption

Attachment 4 – Caltrans Initial Studies, Mitigated Negative Declarations, and Addendums for the Placer 89 EIP and the Placer 28 EIP (Attached CD)

Attachment 5 – Notice of Determination, Placer 89 EIP

Attachment 6 – Notice of Determination, Placer 28 EIP

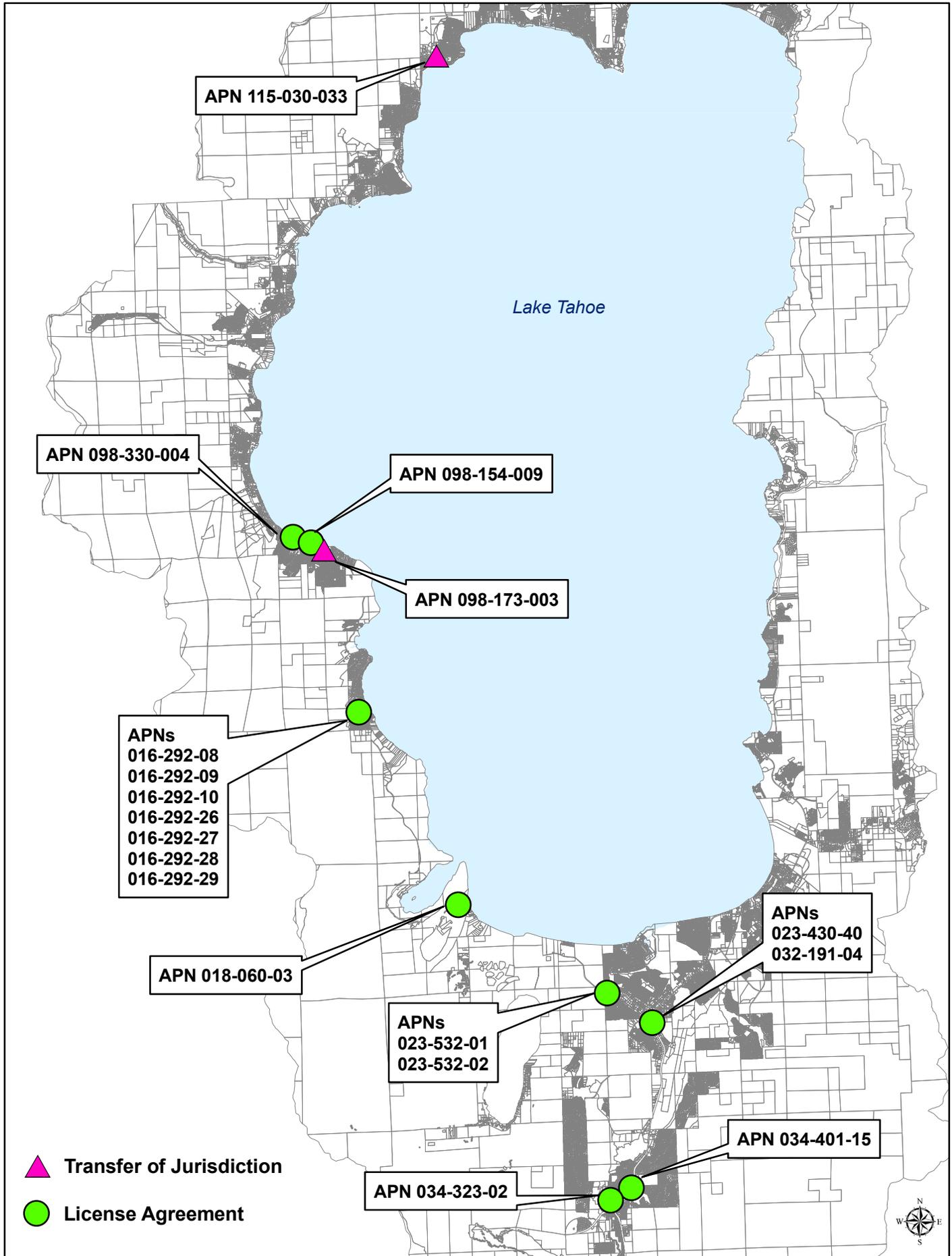
Conservancy Staff Contact:

Penny Stewart

Phone: (530) 543-6013

E-mail: pstewart@tahoe.ca.gov

ATTACHMENT 1
Caltrans License Agreements and Transfers of Jurisdiction



ATTACHMENT 2

California Tahoe Conservancy

Resolution

11-05-01

Adopted: May 19, 2011

LICENSE AGREEMENTS AND TRANSFER OF JURISDICTION AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION

Staff recommends the California Tahoe Conservancy make the following finding based on the accompanying staff report pursuant to Public Resources Code Section 21000 et seq.:

“The Conservancy has evaluated the Caltrans monitoring well project and determined it to be categorically and statutorily exempt from CEQA. The Conservancy hereby directs staff to file a Notice of Exemption for this project with the State Clearinghouse.

The Conservancy has considered the environmental impacts of the proposed Placer 89 EIP as described in the California Department of Transportation’s Initial Study/Mitigated Negative Declaration (IS/MND) and related documents, certified by Caltrans on June 19, 2006. On April 29, 2011 the Conservancy prepared an Addendum. The Conservancy has reviewed the IS/MND, the Addendum, and related documents and finds that the improvements proposed have been adequately analyzed in the IS/MND and the Addendum. The Conservancy finds that no substantial changes are proposed in the project, and no substantial changes have occurred with respect to the circumstances under which the project is undertaken that would involve any new significant environmental effects or significantly increase the severity of any previously identified impacts. The Conservancy hereby directs staff to file a Notice of Determination with the State Clearinghouse for this project.

The Conservancy has considered the environmental impacts of the Placer 28 EIP as described in the IS/MND and related documents, certified by Caltrans on October 25, 2005. On April 29, 2011, the Conservancy prepared

an Addendum to the MND. The Conservancy has reviewed the IS/MND, the Addendum, and related documents and finds that the improvement proposed have been adequately analyzed in the IS/MND and Addendum. The Conservancy finds that no substantial changes are proposed in the project, and no substantial changes have occurred with respect to the circumstances under which the project is undertaken that would involve any new significant environmental effects or significantly increase the severity of any previously identified impacts. The Conservancy hereby directs staff to file a Notice of Determination with the State Clearinghouse for this project."

Staff further recommends that the Conservancy adopt the following resolution pursuant to Government Code Sections 66907.8 and 66907.9:

"The California Tahoe Conservancy hereby authorizes staff to enter into long-term license agreements and Transfer of Jurisdiction Agreements with the California Department of Transportation on Placer County Assessor Parcel Numbers 098-154-009, 098-173-003, 098-330-004, and 115-030-033, and El Dorado County Assessor Parcel Numbers 016-292-08, 016-292-09, 016-292-10, 016-292-26, 016-292-27, 016-292-28, 016-292-29, 018-060-03, 023-430-40, 023-532-01, 023-532-02, 032-191-04, 034-323-02, and 034-401-15, which permit activities associated with water quality improvement projects for State Routes 28, 50 and 89, and authorizes staff to take all other necessary steps consistent with the accompanying staff recommendation."

I hereby certify that the foregoing is a true and correct copy of the resolution duly and regularly adopted by the California Tahoe Conservancy at a meeting thereof held on the 19th day of May, 2011.

IN WITNESS THEREOF, I have hereunto set my hand this 19th day of May 2011.

Patrick Wright
Executive Director

ATTACHMENT 3

NOTICE OF EXEMPTION

TO: Office of Planning and Research
1400 10th Street, Room 121
Sacramento, CA. 95814

FROM: California Tahoe Conservancy
1061 Third Street
South Lake Tahoe, CA. 96150

Project Title:

License Agreement with the California Department of Transportation

Project Location – Specific:

Placer County Assessor Parcel Numbers 098-154-009 and El Dorado County Assessor Parcel Numbers 016-292-08, 016-292-09, 016-292-10, 016-292-26, 016-292-27, 016-292-28, 016-292-29, 018-060-03, 023-430-40, 023-532-01, 023-532-02, 032-191-04, 034-323-02, and 034-401-15

Project Location – City:

Unincorporated Areas and the City of South Lake Tahoe

Project Location – County:

El Dorado and Placer

Description of Nature, Purpose, and Beneficiaries of Project:

Caltrans proposes to use Conservancy parcels for the purpose of continued monitoring. Upon completion of monitoring Caltrans will remove the wells, seal the boreholes and restore the parcels.

Name of Public Agency Approving Project:

California Tahoe Conservancy (Conservancy meeting of 5/19/2011) (Agenda Item 7)

Name of Person or Agency Carrying Out Project:

California Tahoe Conservancy

Exempt Status:

- Ministerial (§ 21080 (b)(1); § 15268)
- Declared Emergency (§ 21080 (b)(3); § 15269 (a))
- Emergency Project (§ 21080 (b)(4); § 15269 (b)(c))
- Categorical Exemption. E.g. Classes 6, §§ 15306, Title 14, § 12102.6X
- Statutory Exemption § 15262

Reasons Why Project is Exempt:

The project consists of collecting groundwater depth information for the purposes of planning and designing water quality improvement projects.

Contact Person:

Penny Stewart

Telephone Number:

(530) 543-6013

Date Received for Filing:

Patrick Wright
Executive Director

ATTACHMENT 4

PLACER 89 ENVIRONMENTAL IMPROVEMENT PROJECT
PLACER 28 ENVIRONMENTAL IMPROVEMENT PROJECT

California Department of Transportation
Initial Study
Mitigated Negative Declaration
Conservancy CEQA Addendum

Attached CD

ATTACHMENT 5

NOTICE OF DETERMINATION

TO: Office of Planning and Research
1400 10th Street, Room 121
Sacramento, CA. 95814

FROM: California Tahoe Conservancy
1061 Third Street
South Lake Tahoe, CA. 96150

Subject:

Authorization to enter into a license agreement and Transfer of Jurisdiction Agreement with the California Department of Transportation

Project Title:

Placer 89 Environmental Improvement Project

State Clearinghouse Number:

2006042018

Contact Person:

Penny Stewart

Telephone Number:

(530) 543-6013

Project Location:

Two Conservancy owned parcels, Placer County Assessor Parcel Numbers 098-173-003 and 098-330-004 located on the west shore of Lake Tahoe in Placer County

Project Description:

The license agreement would provide temporary access rights to a small portion of APN 098-330-004 to assist in the construction of curb and gutter. The Transfer of Jurisdiction Agreement would permit the relocation of a telephone pole and guy anchor on Assessor Parcel Number 098-173-003 as the current location interferes with new water quality improvements being constructed as part of the Placer 89 EIP

This is to advise that the California Tahoe Conservancy, acting as a responsible agency, has approved the above described project on May 19, 2011 and has made the following determinations regarding the above described project:

1. The project will not have a significant effect on the environment.
 2. A Mitigated Negative Declaration (MND) for the project was prepared and approved by Caltrans on June 19, 2006 and a Notice of Determination (NOD) was filed on June 21, 2006. The Conservancy prepared an Addendum to the MND on April 29, 2011. The NOD, MND, Addendum, and record of project approval may be examined at California Department of Transportation, 703 B Street, Marysville, California 95901. The California Tahoe Conservancy previously reviewed and considered the MND that was prepared by Caltrans and the Addendum that was prepared by the Conservancy prior to project approval.
 3. Mitigation Measures were made a condition of the approval of the project by Caltrans and the California Tahoe Conservancy.
 4. The Conservancy finds that no substantial changes are proposed in the project, and no substantial changes have occurred with respect to the circumstances under which the project is taken that would affect any potentially significant environmental effects. Furthermore, there are no changes regarding the project that would require new or different mitigation measures.
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Fish and Game Fees: N/A, paid by Caltrans
Date Received for Filing:

Patrick Wright
Executive Director

ATTACHMENT 6

NOTICE OF DETERMINATION

TO: Office of Planning and Research
1400 10th Street, Room 121
Sacramento, CA. 95814

FROM: California Tahoe Conservancy
1061 Third Street
South Lake Tahoe, CA. 96150

Subject:

Authorization to enter into a Transfer of Jurisdiction Agreement with the California Department of Transportation

Project Title:

Placer 28 Environmental Improvement Project

State Clearinghouse Number:

2005052060

Contact Person:

Penny Stewart

Telephone Number:

(530) 543-6013

Project Location:

One Conservancy owned parcel, Placer County Assessor Parcel Number 115-030-033, located on the north shore of Lake Tahoe in Placer County community of Carnelian Bay

Project Description:

The Transfer of Jurisdiction Agreement would permit Caltrans to install a pedestrian light standard at the corner of Onyx Street and State Route 28 as part of the Placer 28 EIP.

This is to advise that the California Tahoe Conservancy, acting as a responsible agency, has approved the above described project on May 19, 2011 and has made the following determinations regarding the above described project:

1. The project will not have a significant effect on the environment.
 2. A Mitigated Negative Declaration (MND) for the project was prepared and approved by Caltrans on October 25, 2005 and a Notice of Determination (NOD) was filed on October 28, 2005. An Addendum was prepared by the Conservancy on April 29, 2011. The NOD, MND, Addendum and record of project approval may be examined at California Department of Transportation, 703 B Street, Marysville, California 95901. The California Tahoe Conservancy previously reviewed and considered the MND that was prepared by Caltrans and the Addendum that was prepared by the Conservancy prior to project approval.
 3. Mitigation Measures were made a condition of the approval of the project by Caltrans and the California Tahoe Conservancy.
 4. The Conservancy finds that no substantial changes are proposed in the project, and no substantial changes have occurred with respect to the circumstances under which the project is taken that would affect any potentially significant environmental effects. Furthermore, there are no changes regarding the project that would require new or different mitigation measures.
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Fish and Game Fees: N/A, paid by Caltrans

Date Received for Filing:

Patrick Wright
Executive Director