MINUTE ITEM

This Calendar Item No. 38. was approved as Minute Item No. 38 by the State Lands Commission by a vote of 4 to 0 at its 12-20-79 meeting.

CALENDAR ITEM

38.

12/79
Sanders

W 30005

RECONSIDERATION OF POLICY FOR NEW CONSTRUCTION AT LAKE TAHOE

At its November 1978 meeting, the Commission adopted a policy which predicated the use of State public lands in Lake Tahoe for the construction of new private structures on the precondition of environmental analysis. Subsequently, in August 1979, the Commission extended this policy through December 1979, subject to staff working with the California Tahoe Regional Planning Agency (C.T.R.P.A.) to develop a full range of alternatives for management of the Tahoe shorezone. By adopting the Shorezone Ordinance of the Tahoe Regional Planning Agency, CTRPA became the "Lead Agency", under the provisions of the California Environmental Quality Act of 1970, as amended, in the consideration of such private structures. (See attached minute items).

Staff has also sought funding from various Federal and State sources to research the physical and biological mechanisms at work in the Tahoe shorezone and the effects of physical structures on such processes. The resultant information would be used to establish a threshold for developments in the shorezone. The results of the reasearch would contribute to the decision-making process by providing a scientific and documented basis for the approval or disapproval of such projects.

Since the August 1979 Commission action, staff has been notified that the Secretary for Resources has recommended to the Administration and through the budgetary process to the Legislature, approval of a budget item to the State Lands Commission in the amount of $175,000 from the California Environmental Protection Program (Personalized License Plates) to perform this research effort over the next 2-3 years.

Staff is also, per the Commission's action in August, continuing the work with CTRPA staff to develop interim criteria by which future shorezone development at Lake Tahoe might be considered and approved. These criteria would be used by CTRPA to determine which projects involving shorezone structures would require the preparation of an environmental impact report (EIR).

IT IS RECOMMENDED THAT THE COMMISSION:

1. CONTINUE ITS INTERIM POLICY, AS ADOPTED IN NOVEMBER 1978



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AND EXTENDED IN AUGUST 1979 UNTIL SPECIFIC CRITERIA FOR THE CONSIDERATION OF SHOREZONE DEVELOPMENT ARE ADOPTED BY CTRPA OR UNTIL DECEMBER 31, 1980, WHICHEVER IS EARLIER.

2. AUTHORIZE THE STAFF TO INITIATE THE PROCEDURES NECESSARY TO SELECT THE CONSULTANT(S) WHICH WOULD BE USED IN THE RESEARCH STUDY.

EXHIBITS: A. MINUTE ITEM 32.
B. MINUTE ITEM 33.





(NONSUBSTANTIVE REVISION, 4-14-80)

EXHIBIT A

CALENDAR ITEM

32.

11/78
W 30005
Trout

ENVIRONMENTAL IMPACTS
LAKE TAHOE
PROPOSED FINDINGS AND POLICY

Each month applications are received for leases and permits to use some portion of the bed of Lake Tahoe for construction of new piers and other structures, and for the placement of buoys. The number of these is such that a specific Commission policy concerning future use of sovereign lands in the lake is advisable. Many of the proposed structures in and of themselves can be handled under the various exemptions to CEQA and the related guidelines. Most proponents are anxious for the exemption process to be used for their project. However, taken together over a period of time, the cumulative effect of significant numbers of structures could well be substantial. Continued use of available exemptions to environmental review seems questionable.

Several California and Nevada State agencies and federal offices have been concerned about cumulative impacts of many small structures. As a result, a jointly funded impact assessment was sought by the Commission, the State of Nevada, the Tahoe Regional Planning Agency and the United States Army Corps of Engineers. Prepared in February, 1978, by consultants Phillips Brandt Reddick, Inc. and McDonald and Grefe, Inc., The Cumulative Impacts of Shorezone Development at Lake Tahoe provided "an assessment of the cumulative environmental and socioeconomic impacts of a proliferation of piers, mooring buoys, floating docks and shoreline protective structures in the nearshore and foreshore zones of Lake Tahoe, as this development is regulated by the T.R.P.A. Shorezone Ordinance".

While the report reached several conclusions, the consultants also stated that "Insufficient data is available to enable us to draw conclusions about the physical effects of the increased densities of piers described in the maximum buildout scenario". The consultants recommended "... that several focused supplemental investigations may be desirable." What is still needed is an assessment of the significant environmental affects of continued construction of many individual piers and protective structures together with associated mooring buoys. Funds for such a study are being sought from the Resources Agency and other potential money sources. Pending completion of this much needed report,

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(NONSUBSTANTIVE REVISION 4-14-80)

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individual requests for new construction to occupy State sovereign lands need to be critically examined for environmental impacts.

From the February, 1978 consultants' report, some specific findings can be made. While piers, buoys, and other permeable shorezone structures have little or no individual discernable effects on the environment of the shorezone, the study authorized by the Commission and several other agencies indicates that these structures can have discernable cumulative impacts. It was determined in the study that high densities of piers and other permeable structures can:

1. Contribute to and perpetuate the physical shorezone instability at Lake Tahoe;

2. Affect the biological productivity of the Lake;

3. Inhibit and diminish the public's access to and enjoyment of the shorezone.

The report also concluded that mooring buoys have little or no physical impact on the shorezone environment.

Given the above general conclusions of the report it is suggested that further requests for use of the State owned bed of Lake Tahoe for new construction of piers and other structures, other than mooring buoys, be subjected to the full requirements of CEQA. No categorical exemption should be employed until the cumulative effects of many such structures have been fully investigated. In establishing this policy, the staff suggests the applicants use alternatives which reduce or eliminate high densities of piers and other private-use permeable structures, especially in sensitive sandy shorezone areas. Examples of such possible alternatives would be "association type" joint use facilities or one pier serving several upland owners.

THE COMMISSION WOULD APPEAR TO HAVE A NUMBER OF OPTIONS BEFORE IT. BRIEFLY THESE WOULD BE:

A. CONTINUE TO USE THE CATEGORIC EXEMPTIONS WHERE APPROPRIATE AND DENY ALL LEASE FOR NEW CONSTRUCTION IN AREAS OF CRITICAL FISH AND WILDLIFE HABITAT.

B. 1. FIND THAT INSUFFICIENT DATA IS AVAILABLE TO ADEQUATELY ASSESS THE CUMULATIVE EFFECT OF INCREASED DENSITIES OF PIERS ON THE ENVIRONMENT OF LAKE TAHOE.

2. REQUIRE THAT, PENDING COMPLETION OF AN EIR ON THE CUMULATIVE EFFECT OF CONTINUED CONSTRUCTION OF PIERS

AT LAKE TAHOE, ALL APPLICATIONS FOR LEASES AND PERMITS FOR NEW CONSTRUCTION AT LAKE TAHOE, EXCEPT NAVIGATION AND MOORING BUOYS, BE SUBJECT TO FULL EIR PROVISIONS OF CEQA. CATEGORICAL EXEMPTIONS WILL NOT BE GRANTED FOR SUCH CONSTRUCTION ON THE STATE OWNED BED OF LAKE TAHOE.

3. ENCOURAGE MULTIPLE USE OF STRUCTURES IN LAKE TAHOE THROUGH ASSOCIATIONS AND OTHER JOINT TYPE FACILITIES USED BY 2 OR MORE PROPERTY OWNERS.

C. 1. REQUEST FUNDS FROM THE LEGISLATURE FOR PREPARATION OF A CUMULATIVE EIR REPORT FOR STRUCTURES AT LAKE TAHOE, AND

2. SUSPEND ALL LEASING UNTIL AN ACCEPTABLE CUMULATIVE EIR IS PREPARED.

This Calendar Item No. 33 was approved as Minute Item No. 33 of the State Lands Commission by a vote of 2 to 0 at its 3-29-79 meeting.

EXHIBIT B

MINUTE ITEM

8/79
Sanders

33. RECONSIDERATION OF INTERIM POLICY FOR NEW CONSTRUCTION AT LAKE TAHOE.

During consideration of Calendar Item 33 attached, Commission-Alternate Sheldon Lytton requested that instead of the moratorium extension being indefinite, that it be limited to 6 months from June 30, 1979. Chairman Roy Bell concurred.

Mr. Walter Bailey, President of the Tahoe Resource Conservation District appeared. For informational purposes, Mr. Bailey pointed out that the building season at Lake Tahoe ceases on October 15, and commences again on May 1. He requested that since much planning must occur before the May 1 deadline, that the Commissioners take that into consideration when determining the deadline. Mr. Bailey also requested that the Commission keep closely allied to the local government's concerns on both sides of the lake, especially with regard to the shorezone ordinances.

Upon motion duly made and carried, the following resolution was adopted by a vote of 2-0:

THE COMMISSION:

1. CONTINUE THE INTERIM POLICY, AS ADOPTED NOVEMBER 1978 UNTIL DECEMBER 31, 1979.

2. AUTHORIZE STAFF TO WORK WITH CTRPA TO DEVELOP A FULL RANGE OF ALTERNATIVES FOR MANAGEMENT OF THE TAHOE SHOREZONE BASED ON EXISTING INFORMATION AND APPLICABLE PROVISIONS OF LAW.

3. SPECIFY THAT THE EFFECTIVE DATE OF ANY COMMISSION ACTION ON A SHOREZONE STRUCTURE IS CONTINGENT UPON THE APPROVAL OF SAME BY CTRPA.

Attachment: Calendar Item 33.

(NONSUBSTANTIVE REVISION, 4-14-80)

CALENDAR ITEM

33.

8/79
Sanders

RECONSIDERATION OF INTERIM POLICY
FOR NEW CONSTRUCTION AT LAKE TAHOE

At its November 1978 meeting, the Commission adopted the policy contained in the attached Minute Item regarding piers and mooring buoys at Lake Tahoe. Briefly, the Commission suspended all leasing for construction of new piers at Lake Tahoe, excepting mooring buoys and multiple-use facilities, until June 30, 1979. The intent of this interim policy was to allow time for the Commission staff to explore funding sources, including a State appropriation in the Commission's budget, for the preparation and initiation of a research effort which would address the cumulative impacts associated with additional boating and recreation facilities in the Tahoe shorezone. Resulting information would be used in any environmental analyses and decision-making processes necessitated by these proposed developments.

Staff has sought funding from several federal research agencies and through the State budgetary process since 1978. Until now, these efforts have proven unsuccessful. However, Commission staff have recently received indications of support for its funding request from staff of the Resources Agency. Additional supporting information pertaining to such request has been transmitted to the Agency. Such funding appears more plausible in light of the current jurisdictional uncertainties of the region and recently revised guidelines for the allocation of State funds from the California Environmental Protection Program (Environmental License Plate Fund).

In addition, the California Tahoe Regional Planning Agency (CTRPA) has recently adopted (Friday, August 3, 1979) an ordinance to regulate shorezone activity at Lake Tahoe. The ordinance was adopted as an urgency measure and thus takes effect immediately. The ordinance imposes specific restrictions on all structures constructed in the shorezone of Lake Tahoe and includes provisions for the assessment of cumulative effects associated with such structures.

As a result of this ordinance, CTRPA essentially becomes the Lead Agency under CEQA for all construction within the Lake Tahoe shorezone. Under such an arrangement the Commission becomes a responsible agency even though it too shares a major responsibility for the shorezone.

Under the previous administration of the shorezone ordinance by the Tahoe Regional Planning Agency, the provisions of CEQA were deemed, by that agency, to be inapplicable. It was this interpretation, in part, which gave rise to the policy adopted by the Commission in November 1978, as it addressed the need for environmental analysis based on the cumulative effects of shorezone structures. CTRPA is clearly governed by the provisions of CEQA and as such, an analysis of cumulative impacts will be required by that agency. The Commission staff is now cooperating with the staff of CTRPA on all permits for such structures.

EXHIBIT: A. November 1978 Minute Item.

IT IS RECOMMENDED THAT THE COMMISSION:

1. CONTINUE THE INTERIM POLICY, AS ADOPTED IN NOVEMBER 1978.

2. AUTHORIZE STAFF TO WORK WITH CTRPA TO DEVELOP A FULL RANGE OF ALTERNATIVES FOR MANANGEMENT OF THE TAHOE SHOREZONE BASED ON EXISTING INFORMATION AND APPLICABLE PROVISIONS OF LAW.

3. SPECIFY THAT THE EFFECTIVE DATE OF ANY COMMISSION ACTION ON A SHOREZONE STRUCTURE IS CONTINGENT UPON THE APPROVAL OF SAME BY CTRPA.