

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

**JENNIFER LUCCHESI, Executive Officer**

(916) 574-1800

TTY CA Relay Service: 711 or Phone 800.735.2922

from Voice Phone 800.735.2929

or for Spanish 800.855.3000

Governor's Office of Planning & Research

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Contact Phone: (916) 574-1890

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Ashley Sibr
U.S. Forest Service Lake Tahoe Basin Management Unit
35 College Drive
South Lake Tahoe, CA 96150
Ashley.Sibr@usda.gov
<http://www.fs.usda.gov/goto/ltbmu/meeksrestoration/comment>

Brian Judge
Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150
Brian.Judge@waterboards.ca.gov

Rebecca Cremeen
Tahoe Regional Planning Agency
P.O. Box 5310
128 Market Street
Stateline, NV 89449-5310
rcremen@trpa.org

Subject: Draft Environmental Impact Statement/Environmental Impact Report/Environmental Impact Statement (EIS/EIR/EIS) for the Meeks Bay Restoration Project (Project), El Dorado County

Dear Lead Agency Representatives:

The California State Lands Commission (Commission) staff has reviewed the Draft EIS/EIR/EIS for the Project, which is being prepared by the U.S. Forest Service Lake Tahoe Basin Management Unit (LTBMU), Lahontan Regional Water Quality Control Board (LRWQCB), and Tahoe Regional Planning Agency (TRPA). The LTBMU, as the public agency proposing to carry out the Project, is the lead agency under the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.); LRWQCB is the lead agency under the California Environmental Quality

Act (CEQA) (Pub. Resources Code, § 21000 et seq.); TRPA is the lead agency pursuant to Articles 4 and 6 of the TRPA Rules of Procedure for preparation of a TRPA EIS. The Commission is a trustee agency for projects that could directly or indirectly affect State sovereign land and their accompanying Public Trust resources or uses. Additionally, because the Project involves work on State sovereign land, the Commission will act as a responsible agency.

Commission Jurisdiction and Public Trust Lands

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. All tidelands and submerged lands, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine.

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 navigable non-tidal waterways, including lakes, the state holds fee ownership of the bed of the waterway landward to the ordinary low-water mark (OLWM) and a Public Trust easement landward to the ordinary high-water mark (OHWM), except where the boundary has been fixed by agreement or a court of proper jurisdiction. Such boundaries may not be readily apparent from present day site inspections. The easement may be limited to the extent necessary to protect sensitive species, identified cultural or historic resources, or safety of the general public, provided that the interference with public access is limited to the minimum extent and time necessary to accomplish the public purpose.

Portions of the Project located in Lake Tahoe at and below elevation 6,223 feet, Lake Tahoe Datum (LTD), will be located on State sovereign land under the jurisdiction of the Commission. This elevation also serves as the OLWM for Lake Tahoe. As a result, formal authorization for use of State sovereign land will be required from the Commission for any portion of the Project encroaching on State sovereign land.

Project Description

The Project area occurs on LTBMU land inclusive of Meeks Creek and marina, Meeks Bay Resort, and the campground and day use beach area on the south side of the Project area. Project objectives include restoration of Meeks Creek for water quality and channel morphology, control of aquatic invasive species, and recreation improvements. Proposed activities on State sovereign land vary among the action alternatives, but could include a new pier, removal of

bulkhead walls and restoration of the creek mouth, a non-motorized watercraft launch structure, and removal and new construction of shoreline stabilization structures.

Environmental Review

Commission staff requests that the lead agencies consider the following comments on the Draft EIS/EIR/EIS.

1. Project Description: Identify elevation lines for the OHWM and OLWM of Lake Tahoe for all proposed work, inclusive of new pier construction, construction activities at the mouth of Meeks Creek, non-motorized watercraft launch structure, and removal and new construction of shoreline stabilization structures.
2. Day Use Beach Access and Parking: With all the action alternatives, parking capacity is generally described as available parking. Commission staff recommends further description of the potential range of uses that available parking could serve, such as day use beach access, campground parking, hiking, picnicking, etc. Specifically, identify the location and number of parking spaces that will primarily serve day use beach access. The Preferred Alternative (Alternative 4) promotes an increase in parking on the south side of the project area, but does not specify if the increased parking will primarily serve day use beach access, or if this parking area is also intended for overflow campground parking and other uses.
3. Public Access Restrictions: For all construction phases of the Project, the EIS/EIR/EIS should provide a detailed description of any temporary restrictions on shoreline access, and for navigation within the lake. Potential mitigation measures could include public notices and posting of signs at the Project area to inform the public of temporary access restrictions.
4. Lake Tahoe Shoreline and Nearshore Restoration: The Draft EIS/EIR/EIS promotes a range of restoration improvements to Meeks Creek, including floodplain restoration, sediment retention, hydrologic and geomorphic function, aquatic invasive species, fish habitat and passage, enhanced water quality, etc. However, these benefits are primarily promoted for Meeks Creek. The Draft EIS/EIR/EIS should provide further description for how these restoration improvements will improve and affect shoreline and nearshore conditions for the lake environment surrounding the mouth of Meeks Creek.

The Hydrology/Water Quality section should provide further analysis and description for how creek restoration improvements will affect shoreline, hydrologic, geologic, water quality, and fish habitat conditions for the nearshore environment surrounding the mouth of Meeks Creek. Alterations or improvements to the lake environment could include changes to stream

mouth morphology and meandering, hydrology and sediment discharge, littoral cell and drift conditions, lake bottom bathymetry, water quality and clarity conditions, nearshore lake bottom substrate and fish habitat conditions, discharge of organic matter and debris, etc.

Thank you for the opportunity to comment on the Draft EIS/EIR/EIS for the Project. Please provide noticing for project approval hearings and certification of the EIS/EIR/EIS, or if recirculation of the document occurs. Application for a lease with the Commission will require submittal of the certified EIS/EIR/EIS, Mitigation Monitoring Program, approving resolution, findings and statement of overriding consideration, and Notice of Determination. Please note that federal and state laws require all government entities to improve accessibility of information technology and content by complying with established accessibility requirements. (29 U.S.C. § 794d; 36 C.F.R. § 1194.1 et seq.; Gov. Code, § 7405.) California State law prohibits State agencies from publishing on their websites content that does not comply with accessibility requirements. (Gov. Code, § 115467.) Therefore, any documents submitted to Commission staff during the processing of a lease or permit, including all CEQA documentation, must meet accessibility requirements for Commission staff to place the application on the Commission agenda.

Please refer questions concerning environmental review to Jason Ramos, Senior Environmental Scientist, at (916) 574-1814 or Jason.Ramos@slc.ca.gov. For questions concerning Commission leasing jurisdiction, please contact Cheryl Hudson, Public Land Manager, at (916) 574-0732 or cheryl.hudson@slc.ca.gov.

Sincerely,



Eric Gillies, Assistant Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
J. Ramos, Commission
C. Hudson, Commission