



Tahoe Regional Planning Agency  
Regional Plan Implementation Committee  
128 Market Street  
Stateline, NV 89449

August 21, 2018

**Subject: Proposed Fee Program for Lake Tahoe Shoreline Plan**

Dear Members of the Regional Plan Implementation Committee and TRPA staff:

The Friends of the West Shore appreciates the opportunity to provide comments on the proposed Shoreline Program Fees. We would also like to thank the Shoreline Steering Committee for their efforts to develop the proposed fees and key concepts.

As our comments on the Draft Environmental Impact Statement (DEIS) noted, details regarding the proposed mitigation for the Shoreline Plan were lacking.<sup>1</sup> For example, while the DEIS identified the addition of a second boat crew for enforcement, the DEIS did not identify how much this would cost, what locations would be monitored, how often, etc., nor how monitoring would tie in with timely adaptive management. Further, the DEIS contained no comprehensive shoreline-specific monitoring program.

**1. Cost estimates:**

While the proposed Shoreline Program Fees (Fees) list quantifies the cost of various monitoring activities, there is no accompanying information regarding how these fees were estimated. We are concerned the fees may not be sufficient to cover an adequate level of monitoring. For example, the proposed Fees for additional water and noise monitoring are only \$30,000/year. For comparison, the 2007 Blue Boating Program proposed by TRPA identified specific monitoring for water quality and the associated cost, which was estimated to be \$164,000/year<sup>2</sup> – well above the \$30,000/year proposed in the Fees (although as noted below, there is no detail regarding what this additional monitoring will entail). Researchers from the Tahoe Environmental Research Center have also reiterated the importance of increased water quality monitoring. There is also no mention of whether additional noise monitors will be purchased, how much they cost, and what the costs of additional staff and/or consultant time will involve.

**2. Mitigation details:**

There is no accompanying information provided to identify what the proposed Fees will translate to with regards to improved “on-the-ground” monitoring and enforcement. As noted above, details regarding the efficacy of a second boat crew have not been provided (examples of parameters that could be analyzed related to enforcement capabilities were provided in our DEIS comments<sup>3</sup>). There is also no information regarding what the additional water quality and noise monitoring will entail. For example, will additional water quality instrumentation

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<sup>1</sup> Attachment A

<sup>2</sup> Attachment B

<sup>3</sup> Attachment C

be required, and if so, what is the initial and ongoing cost? Will water samples be taken and what will the laboratory fees be? Will noise monitors need to be purchased? For how many additional days will noise be monitored, where, and for how long?

### **3. Inadequate monitoring program:**

As our DEIS comments note, a comprehensive, shoreline-specific monitoring program is needed, as was recognized by the EIS for the 2008 Ordinances. We were surprised to see such a program missing in the 2018 Proposed Shoreline Plan. We believe a larger monitoring program addressing all impacts of the Shoreline Plan, including air and water quality, noise levels, scenic resources, public health and safety, recreation, and other impacts, is necessary to make the required TRPA findings for the Shoreline Plan. This plan should be developed and associated costs determined *before* mitigation fees are proposed so that TRPA can ensure adequate funding is collected to support sufficient monitoring and adaptive management.

### **4. Items to be addressed in FEIS per staff report:**

The staff report states that the following items have been added to the program as a result of public comments on the DEIS:

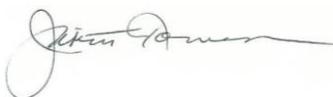
“TRPA will also contribute a portion of the education and outreach funds collected from fees to the Lake Tahoe Water Trail to implement paddler education and access programs...TRPA will implement a shoreline recreation monitoring program to inform adaptive management programs addressing user conflicts, boating behavior and perceived crowding on the lake.” (p. 312)

The proposed Fees do not quantify what “portion” of education and outreach funds will be contributed to the Lake Tahoe Water Trail, nor identify any funding toward a “shoreline recreation monitoring program” that the staff report states will be included in the FEIS. There is also no information on this program, such as to what extent it will address safety and lake access by non-motorized recreation users and what associated implementation and monitoring costs will be.

In conclusion, FOWS believes it is premature to endorse the proposed Fees. Further, we hope the FEIS will include the mitigation details requested in our DEIS comments, which are necessary for the public and decision-makers to assess whether impacts will be mitigated by the proposed programs and fees. It is not sufficient to merely identify funding for mitigation measures without including information on how it will be used to mitigate impacts. Until these details have been provided, it is not possible to determine whether the proposed Fees are sufficient.

We are encouraged by the discussion of Shoreline Program Fees and the identification of various programs, however we request the final details and amounts be determined based upon the specific mitigation information we have requested be addressed in the FEIS. Please feel free to contact Jennifer Quashnick at [jqtahoe@sbcglobal.net](mailto:jqtahoe@sbcglobal.net) if you have any questions.

Sincerely,



Judith Tornese,  
*President*



Jennifer Quashnick,  
*Conservation Consultant*

*The FEIS must analyze the maximum potential increases in boat launches from the new ramps. According to the table, the maximum potential increased number of launches to analyze should be 6,731 annual and 198 peak day launches per new ramp.*

## **Monitoring, Mitigation, and Adaptive Management:**

### **Lack of shoreline-focused monitoring program:**

Our NOP comments noted the needed to include a robust monitoring program and adequate funding. We also stated that new development which relies on mitigation and monitoring results should not be permitted until the program is fully implemented. Otherwise, if new development is allowed but impacts are not monitored, how will TRPA be able to ensure impacts are within those analyzed in the EIS and adapt when needed to prevent further degradation?

Surprisingly, the DEIS includes no requirements for shoreline-focused monitoring other than an unspecified level of additional nearshore monitoring (although this is only in shallow areas outside of the No Wake Zone) and AIS requirements for marina plans. (The DEIS also “encourages” fish habitat monitoring<sup>57</sup> but does not require it). There is no program to address air and water quality emissions or noise levels from motorized watercraft (nor funding specified for these purposes). The DEIS appears to avoid inclusion of monitoring requirements by concluding impacts are less than significant, although as noted throughout our comments, those conclusions are based on inadequate technical analyses. Even the 2008 EIS recognized the need for a robust monitoring program.

Finally, during the 6/27/2018 TRPA GB hearing, Dr. Geoffrey Schladow presented the results of Tahoe’s annual 2017 clarity readings, and repeatedly noted the importance of expanding monitoring in the lake to better understand lake processes and the impacts of climate change. Funding is needed to support additional monitoring and must be incorporated into the new Shoreline Plan. Below is the summary slide from his presentation,<sup>58</sup> clearly identifying the importance of sustained programmatic monitoring, and encouraging TRPA to “demand” such funding (as also specified by the Lake Tahoe Restoration Act):

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<sup>57</sup> “In addition, the proposed Shoreline Plan would encourage a monitoring program to confirm that placement of new piers and buoys has limited impact (direct or through an interaction with nonnative species) on native fish populations and that impacts are mitigated through design requirements.” (p. 2-39) [Emphasis added]

<sup>58</sup> [http://www.trpa.org/wp-content/uploads/Agenda-Item-No-VII.B-Lake-Clarity\\_Dr-Schladow.pdf](http://www.trpa.org/wp-content/uploads/Agenda-Item-No-VII.B-Lake-Clarity_Dr-Schladow.pdf)

## What We Learned

1. The recent notion of mid-lake conditions no longer matter was proved wrong. Mid-lake and nearshore both matter.
2. We had a very rare confluence of two extreme events – that is the primary cause of the 2017 clarity loss.
3. The lake can/did recover from episodic events like 2017.
4. The public and elected officials understood and accepted the reasoning provided by independent science experts.
5. Are we on track to adequately UNDERSTAND future "shocks" of a different type? Are we doing the science necessary to guide the decades of recovery?
6. Current mid-lake monitoring provides a very static view – weekly to monthly frequency. Real-time measurements of lake processes only available through transient research projects.
7. The external drivers – meteorology (zero funding), streams and urban flows (limited funding), atmospheric (even less funding), predictive modeling (zero funding), lake metabolism... Analysis is needed. Need to move from a reactionary mindset.
8. Sustained programmatic monitoring and applied science is needed. This is precisely what the LTRA specifies. This is what TRPA should be demanding.

***The FEIS needs to include a sufficient, fully-funded monitoring program that will measure the impacts to all affected resources and support immediate adaptive management measures, as needed. The monitoring plan should accompany specific performance standards that must be met to ensure sufficient measurements are being taken each summer.***

### **Reporting timeframes and content:**

The proposed project relies on three separate reports for future assessment of shoreline development, all seemingly at different time periods:

1. *Pier allocations* will be evaluated as part of the threshold evaluation report every four years with the next report anticipated in 2019 as well as within the eight-year pier and buoy permitting report noted below;<sup>59</sup>
2. The *allocation of buoys* will be examined the year after the 2019 threshold evaluation report (presumably 2020) and then at eight year intervals;<sup>60</sup> and
3. A *pier and buoy permitting report* will be prepared every eight years.

As our NOP comments recommended,<sup>61</sup> the review, report, and allocation of shoreline development should all be assessed every four years; if parallel timing with the four-year threshold evaluation will exceed staff capacity, then we suggested the shoreline report could be

<sup>59</sup> "The review of pier allocations would occur as part of the existing four-year TRPA threshold evaluation process and through a new eight-year pier and buoy permitting activity report." (p. 2-31)

<sup>60</sup> "Through an adaptive management review process, allocation of all buoys, including the reserve pool and allocation to associations, would first be revisited the year after the 2019 Threshold Evaluation Report is issued. Future evaluation of buoy allocations would occur at a minimum interval of every 8 years after the first evaluation." (p. 2-25)

<sup>61</sup> "We recommend the proposed plan include a pier and buoy permitting report and buoy allocation report **every four years** to be performed in conjunction with the threshold evaluation and any subsequent regional plan amendments that may be deemed necessary to address threshold conditions."

required within some time period after the threshold report is finalized (e.g. six months). The DEIS did not address these recommendations and still proposes three different reports at variable time periods. It is also unclear if the proposed eight year reports will ever match up; the report regarding the allocation of buoys will first occur within one year of the 2019 Threshold Evaluation Report, and then every eight years thereafter. The DEIS makes no mention of whether the eight-year reports for these two issues will be made to coincide after the 2020 buoy allocation report. It is also unclear what each report will evaluate and how adequate adaptive management will be ensured; it will be extremely difficult if all relevant information cannot be evaluated collectively.

***The FEIS needs to clarify what will be in these reports and how they will be used to guide adaptive management (along with adequate monitoring). The timeframes should also all be consistent and reports produced no less than every four years.***

### **In lieu fee programs:**

Where in lieu fee programs are proposed in the DEIS and/or included in the FEIS, we recommend that information be provided regarding specific projects and costs (or that such information be developed and incorporated into the Plan within 12 months of adoption). As noted recently by a TRPA Governing Board member,<sup>62</sup> “[I]n lieu programs work best when there are specific identified projects and costs to achieve the desired outcomes...[in lieu fee programs] tend to fail when there is a dollar amount estimated as the fee but there are no specific projects identified.”

***The FEIS needs to clarify the mitigation programs relying on in lieu fees and either include a specific list of projects that fees will fund and/or designate a process for identifying where fees will be used in the future for mitigation.***

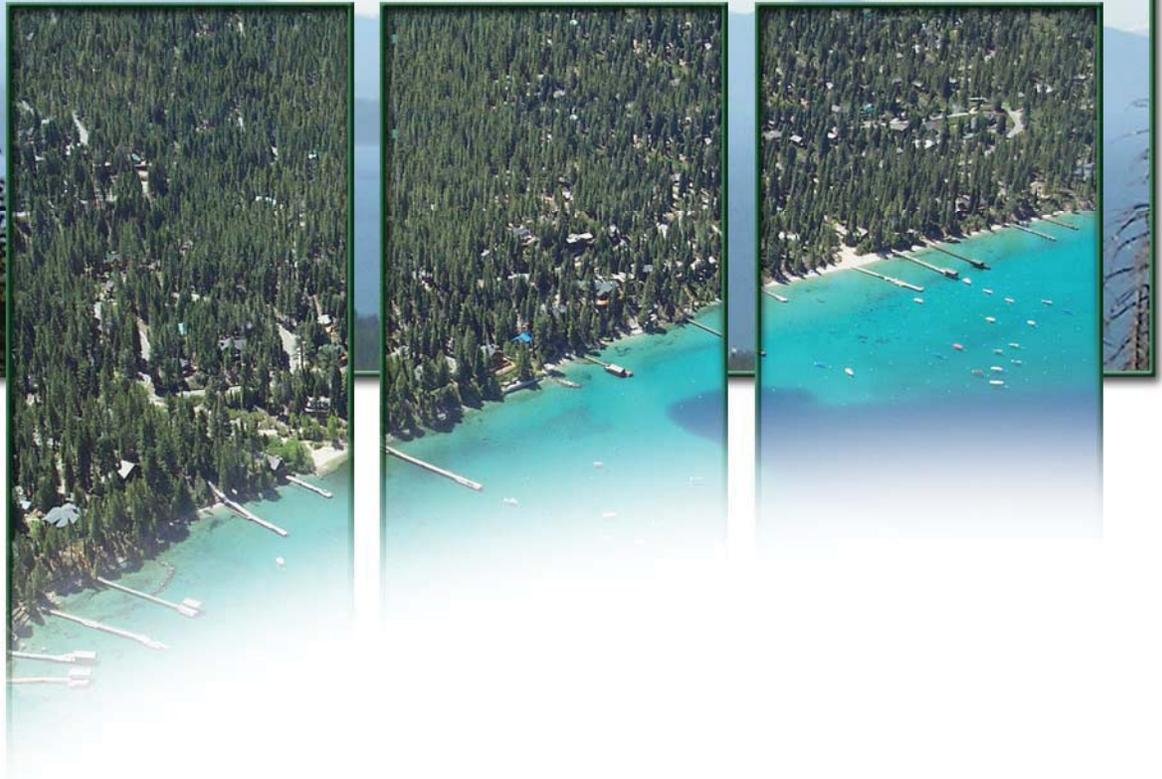
### **Scenic Impacts:**

There are technical inadequacies regarding the evaluation of scenic impacts, especially in two west shore areas that are currently not meeting scenic standards: Rubicon Bay and McKinney Bay. The DEIS also fails to evaluate impacts to views from public recreation areas, bike trails, etc., although this must be analyzed to address TRPA’s own significance criteria for these impacts. Finally, technical adjustments in visual simulations may result in making visual impacts appear less significant than they may be.

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<sup>62</sup> “Mr. Lawrence said in lieu programs work best when there are specific identified projects and costs to achieve the desired outcomes. He would like to see that taken into account as the in lieu program is being worked on. These programs tend to fail when there is a dollar amount estimated as the fee but there are no specific projects identified. He addressed a comment made about beach recreation. This is about the development standards and the Code. There is a group of dedicated individuals and agencies that are taking a hard look at open space acquisition opportunities in order to better public recreation.” (Minutes from May 2018 GB, p. 11)

**Supplemental Information on  
Lake Tahoe Shorezone Proposed Program**



January 31, 2007



# **SECTION C**

**WATER QUALITY MONITORING PROGRAM**

## Water Quality Monitoring Program

### Objective

The following is a proposal for long term water quality monitoring in Lake Tahoe to maintain Outstanding National Resource Water (ONRW) non-degradation standards, protect public health and drinking water supplies, and maintain Tahoe Regional Planning Agency (TRPA) Thresholds. The monitoring program objectives are to assist in assuring non-degradation from levels determined from the 2002 water quality sampling, to assist in maintaining human health, and to assist in attaining TRPA thresholds. The nondegradation standard as set forth in the ONRW regulations allows for limited short term exceedences in water quality constituents, but no negative trend should be observed. Long term water quality sampling is needed to establish a baseline and determine trends. High boat traffic areas and locations of more frequent and/or higher levels of detection will be monitored to determine if management actions are needed to preclude adverse effects to human health, especially near public beaches and drinking water intakes.

This Water Quality Monitoring Program has been developed with the assistance of the Motorized Watercraft Technical Advisory Group (MWTAG) whose members include representatives from U.S. Geological Survey; Tahoe Environmental Research Center; University of Nevada, Reno Academy for the Environment; Lahontan Regional Water Quality Control Board; Nevada Division of Environmental Protection; California Air Resource Board; and Tahoe Regional Planning Agency.

### I. OVERVIEW AND PREVIOUS STUDIES

The proposed Shorezone Ordinance Amendments analyzed in the Final Environmental Impact Statement (Lake Tahoe Shorezone Ordinance Amendments, November, 2006) propose limited increases in the number of piers and buoys on Lake Tahoe over the next 22 years. Although levels of boating activity are known to be increasing on an annual basis even in the absence of a Shorezone program, it is assumed that the addition of shorezone structures would accommodate an increase in boats and boat traffic. As part of the mitigation for this increase and to address the potential cumulative condition, water quality monitoring is needed to understand changes in water quality over time (including peak use periods, periodically, and seasonally) and maintain the ONRW baseline condition. The ONRW baseline for clarity-declining nutrients such as nitrogen, phosphorus and fine particulates was established by the Tahoe Research Group in 1968-1971. The baseline for hydrocarbons and fuel related constituents only (e.g. MTBE and boat engine combustion by-products such as PAHs) are the measured 2002 levels. This new baseline was set after marked improvements in water quality were realized following the full implementation of the ban on two-stroke carbureted engines and engines that did not meet EPA's 2006 emission standards. Selected hydrocarbons at nine sites have been monitored as follow up to the ban, effective June 1, 1999.

A study was completed in 2003 to determine the occurrence and toxicity of polycyclic aromatic hydrocarbons (PAH) in Lake Tahoe. The results indicate that concentrations in Lake Tahoe are very small and short-lived, (photo-degradation within 48 hours). Once a year limited sampling for fecal coliform bacteria has been conducted at public beaches and near drinking water intakes as part of a citizen monitoring effort called Snapshot Day, and specific areas with higher levels of detection have been identified. Nutrient sampling in the lake is conducted by the

Tahoe Environmental Research Center and historically shows extremely low concentrations. This information will be included in the Annual Monitoring Report for the Shorezone.

## II. WATER QUALITY ISSUES

Increased boat traffic over time, assumed to be due in part to additional shorezone structures, (e.g. buoys) has the potential to add pollution and unwanted discharge into Lake Tahoe. Bacteria from potential spills and holding tank discharges may adversely affect water quality and public drinking water supplies. Unabated, long term accumulation and toxicity is possible for some constituents, especially with regard to PAH and phosphorus in sediments.

The monitoring program as currently planned will emphasize water quality characterization and monitoring in the vicinity of sensitive resources, including popular swimming areas and drinking water intakes. Drinking water purveyors expressed concern about construction of Shorezone facilities in proximity to drinking water intakes, resulting in a 1/4-mile setback from such intakes, unless an assessment concludes that the risk of an adverse occurrence is within acceptable limits. Notwithstanding the location of Shorezone structures, it is judged to be important that monitoring in these areas be conducted to proactively protect human health.

## III. CONCEPTS AND METHODOLOGY

### HYDROCARBONS AND PAH SAMPLING

It is neither possible nor meaningful to determine a direct effect of gasoline-related pollution from any single new pier or buoy. The best method of characterizing water quality is to select lake-wide monitoring locations covering areas of high traffic (such as Emerald Bay) and the potential highest density of new piers and buoys. TRPA has conducted baseline monitoring for approximately 10 sites from pre- and post- carbureted two-stroke ban conditions, and a more robust monitoring program funded by Shorezone mitigation fees is planned that would add new sites to more accurately determine current conditions, especially along the north and west shores. The establishment of updated conditions can then be compared with future sampling to determine changes or trends. The data will be reviewed annually and if any significant increase in a constituent is seen, expanded sampling will be conducted the next year to determine if it was a random isolated occurrence (a badly tuned or out of compliance boat engine that just passed the site), or a potential source or problem in that area. The proposed budget will include some contingency for this event.

The program as planned would include:

- The suite of hydrocarbons associated with gasoline byproducts that has historically been analyzed and that is proposed is listed in Table 1:

<b>Table 1 Hydrocarbon Compounds</b>		
<i>ter</i> -amyl alcohol	methyl acetate	acetone
benzene	ethylbenzene	ethyl <i>tert</i> -butyl alcohol
diisopropyl ether (DIPE)	m- and p-xylene	methyl <i>tert</i> -butyl alcohol (MTBE)
o-xylene	<i>tert</i> -butyl alcohol (TBA)	<i>tert</i> -pentyl methyl ether (TAME)
toulene	30 select PAH compounds	

Monitoring Locations and Frequency:

- Sampling for hydrocarbons and PAH is typically performed the next business day after the major summer holidays including Memorial Day, Independence Day and Labor Day. Sampling is also conducted one day in mid-August when boating density is generally high. PAH sampling will be limited to 5 sites with placement of Semi-Permeable Membrane Devices deployed from mid July to mid August. These devices are much more efficient to determine long term toxicity than individual grab samples.
- These four dates at 21 sites per sampling equals 84 samples.
- Two to three quality assurance samples (both sample blank and duplicates) adds 10 samples.
- Additional randomly selected sites at drinking water intakes and popular boating areas.
- Total hydrocarbon/PAH samples from above are 94 samples not including the randomly selected sites.

<b>Previous Sample locations (Appendix A)</b>	
<b>California (8)</b>	<b>Nevada (1)</b>
Tahoe City	
Tahoe Keys at Homeowners Lagoon	Zephyr Cove
Tahoe Keys at Nun Buoy	
Ski Run Marina	
Kiva Beach	
Mid-Lake at TRG Buoy (2001, 2006)	
Emerald Bay at Diver's Buoy	
Emerald Bay near Fannette Island (added in 2005)	

Four sites for which TRPA has some historic data will be re-instated; Homewood, Kings Beach, Glenbrook and Cave Rock. Glenbrook and Cave Rock are locations of lake water intakes. Potential additional sites were determined based on existing and potential buoy density and from potential pier density.

<b>New Sample Locations (Appendix A)</b>	
<b>California (8)</b>	<b>Nevada (4)</b>
Rubicon Bay	Sand Harbor launch
Homewood	Round Hill Pines (intake)
Lakeridge or Skyland (intake)	Cave Rock (intake)
Sunnyside/Tahoe Tavern (intakes)	Glenbrook (intake)
Sierra Boatworks/Carnelian Bay	
Agate Bay (National Av. intake)	
Kings Beach	
Tahoe Meadows/Lakeside Marina (intake)	

- A winter or spring sample date will be added at least once every 3 years to verify the absence of hydrocarbons outside the boating season.
- The mid-lake station will also be sampled at least every 3 years to maintain the long-term correlation of little boat activity and corresponding extremely low concentrations.

#### BACTERIA SAMPLING

The limited sampling for bacteria in Lake Tahoe requires a robust first year sampling program. Currently the Lahontan standard is “fecal coliform shall not exceed a log mean of 20 counts per 100 milliliters of water during any 30-day period.” However EPA is recommending E-coli as the preferred measurement for pathogens. In order to provide for past and future comparisons, both fecal coliform and E. Coli will be sampled at least 4 times each month from May to October, (6 months) at selected drinking water intakes, and high density beaches for a total of 432 samples (Appendix B). Turbidity sampling will also be conducted to develop a relationship between areas of higher turbidity and pathogens (similar to the practice by the water purveyors).

#### **Potential public and private beach areas include:**

##### **California (7)**

Timber Cove/Bijou Creek outlet  
Emerald Bay  
Lake Forest  
Kings Beach  
Ski Run  
Baldwin Beach  
Regean Beach

##### **Nevada (4)**

Incline Beach  
Sand Harbor  
Zephyr Cove  
Nevada Beach

#### **Drinking water intakes:**

##### **California (3)**

Sunnyside  
Agate Bay/National Av.  
Lakeside Marina

##### **Nevada (4)**

Glenbrook  
Lakeridge  
Cave Rock  
Round Hill Pines Resort

Total sites in California is 22, Nevada has 15 (many locations have multiple sampling). This preliminary site selection may be revised with the assistance of the Motorized Watercraft Technical Advisory Group (MWTAG) as part of the Shorezone Program's adaptive management framework.

#### IV. SAMPLING PROCEDURES AND REPORTING

A request for proposals (RFP) for this monitoring program will be solicited according to the TRPA Financial Policy and Purchasing Manual. The proposal will provide details of a Work Plan that includes: a brief project description and objectives; services to be performed and a timeline; Standard Operating Procedures and Quality Assurance/Quality Control procedures that will be implemented and documented; and project deliverables or reports. Each year an annual report including monitoring program information and findings will be compiled and distributed for review by the MTWAG or similar scientific peer review group. Comments and adjustments to the monitoring program will be incorporated and presented to the TRPA Governing Board, and posted on the Shorezone page of the TRPA website.

#### V. COST

The estimated\* cost for the monitoring program is:

- \$117,000 for the 120 (includes random samples) hydrocarbon and PAH samples;
- \$ 41,472 for 432 bacteria samples;
- \$5,500 for TRPA assistance in the form of turbidity and bacteria sampling and boat operation costs

The total estimated cost for the Shorezone Water Quality Monitoring Program is \$ 163,972 per year.

- This monitoring program cost was prepared based on previous and proposed USGS analytical and consultant costs. It is expected that these costs will be refined and updated as sampling constituents and sites are finalized.

*management in order to ensure beneficial impacts to Tahoe's environmental thresholds. Sufficient evidence must be provided to support such conclusions.*

## **Enforcement:**

### **No Wake Zone:**

Our NOP comments stated: *“The DEIS must lay out the required enforcement and identify how adequate resources will be ensured.”* The DEIS relies heavily on increased enforcement of the 600' No Wake Zone to mitigate a wide variety of impacts, including but not limited to water quality (Impact 6-2), noise (Impact 12-3), non-motorized recreation (Impact 8-1<sup>12</sup>), and public health and safety (Impacts 15-1 and 15-4). However, the details regarding increased enforcement are lacking. While the DEIS says additional launch fees will be added to fund an additional TRPA boat crew for enforcement, there are no details regarding what this will actually mean on the ground, how it will be assessed for adequacy, how much it will cost, and how funding will be guaranteed in perpetuity.

In addition, TRPA cannot assume money will solve its problems. The DEIS does not discuss the details of the increased enforcement, the benefits it might provide, or whether funding will be sufficient to fund the costs. In addition, there is no discussion regarding any performance standards related to enforcement, nor limits on new development if adequate enforcement is not in place. As noted in the 2010 US District Court ruling on the 2008 Shorezone Ordinances, *“The mere inclusion of some quantitative data, however, does not render the discussion of mitigation measures sufficient. The EIS does not discuss the ultimate issue, the amount by which aggregate emissions could be reduced by increased enforcement. It appears that any such discussion would require some mention of what fraction of boating occurs in the areas.”* (p. 44). The DEIS contains no discussion of the number of boats currently operating within the No Wake Zone that violate the speed limit, nor the number operating within and outside of No Wake Zones presently or in the future.

The DEIS could have laid out the existing enforcement parameters, such as the following (provided for example purposes only):

- Number of TRPA staff on lake on midweek/non-Holidays and associated boat traffic
- Number of TRPA staff on lake on weekends/Holidays and associated boat traffic
- Number of warnings/violations recorded in past for No Wake Zone speed violations and boat noise violations (where noise violation is related to something other than violation of the No Wake Zone, such as a modified muffler)
- Number of boats operating within and outside of the No Wake Zone in the present and future
- Details regarding current enforcement of buoys and pier regulations, including associated time devoted to No Wake Zone enforcement versus buoy and pier enforcement (for TRPA and other entities)

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<sup>12</sup> With regards to non-motorized users within the No Wake Zone.

- Locations monitored by TRPA staff; number of passes of enforcement crew in specific areas of concern (e.g. how often will the enforcement boat crew monitor the shoreline associated with CA State Parks?)
- Enforcement coverage of popular non-motorized recreation areas
- Detailed plans addressing all of the above with additional enforcement/boat crew
- Costs of existing enforcement (staff costs, boat costs, etc.) and costs to cover proposed additional enforcement crew
- Proposed fees to ensure coverage of enforcement program costs (with future adjustments to ensure 100% of the costs are paid for by motorized boaters and not public tax dollars)
- Other agency enforcement resources (e.g. U.S. Army Corp. of Engineers, local jurisdiction law enforcement, etc.) and historical patrols on the lake; and
- MOUs and other agreements necessary to ensure adequate enforcement by all patrolling entities (adopted or in progress [where in progress, timeline for final agreement and implementation]).

Instead, the DEIS includes vague references to an additional boat crew funded through a future fee for boat launches,<sup>13</sup> but nothing discloses what those efforts will be and how TRPA will ensure the enforcement that is so heavily relied upon to mitigate shoreline impacts actually occurs and continues in a meaningful way.

***The FEIS must provide a sufficient level of detail along with requirements to ensure adequate enforcement mechanisms and resources in perpetuity. While we understand there may be agreements/MOUs that have been approved and/or are being crafted now, this information should have been provided in the DEIS for the public to review and assess, especially given the heavy reliance on enforcement to mitigate a substantial number of the Plan's impacts. Without this information, the public has not been provided adequate information to support the DEIS's presumed mitigation. The FEIS needs to include this information.***

**Buoy enforcement:**

Our NOP comments noted the DEIS needed to assess the number of illegal buoys and ensure they will be removed prior to allowing more new buoys. We understand that some buoys may not currently have TRPA permits but may have permits from other entities (California State Lands Commission, U.S. Army Corp of Engineers, or Nevada Division of State Lands). The DEIS discloses that there are an estimated 490 buoys currently on the lake that are not believed to have permits from any entity, and were not installed prior to the 1972 'grandfathering' cutoff year (DEIS, p. 3-3); in fact, the 490 buoys are excluded from TRPA's baseline conditions, reiterating TRPA's belief they are, in fact, illegal. However, it does not appear that these 490 buoys will be immediately removed. It is also unclear whether TRPA has the legal authority to remove the buoys, and/or if this will involve or require such enforcement by other entities. Further, the proposal to allow additional buoy anchors to be dropped farther out for low-water years will require vigorous enforcement to ensure buoys are not attached to both anchors in these

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<sup>13</sup> "A new boat launch fee would generate funding for an additional TRPA boat crew to expand the no-wake zone education and enforcement program." (p. 2-36)

situations.<sup>14</sup> The DEIS does not disclose how this will be ensured with ongoing regular enforcement and who will be responsible.

***The FEIS needs to disclose efforts being made or that will be made (and associated timeline) to ensure swift removal of illegal buoys (and require removal prior to permitting any additional buoys). Such efforts would include TRPA’s boat crew, the proposed additional boat crew, and agreements with other entities.***

### **Private/public lands and fair share distribution:**

Our NOP comments stated that the DEIS must identify how many people experience Tahoe’s shoreline from public versus private areas and through motorized versus non-motorized uses (e.g. kayaks, canoes, rafts, SUPs, swimming, relaxing on the beach). As the DEIS notes, most people experience Tahoe through non-motorized means; in fact, TRPA’s Goals and Policies call for additional acquisition of privately-owned shoreline areas by the public.<sup>15</sup> However, the DEIS analysis only examines the extent of private versus public ownership of land, which does not take into account the number of recreation users experiencing Tahoe through various means (p. 8-31). A true fair share distribution would ensure that lake access and recreational uses would be protected in line with the percent of users. For example, if 95% of the public who visit Lake Tahoe’s shoreline (including beaches and on the lake) do so via public lands, then the extent of publicly-owned shoreline should be increased to better represent this distribution and the experiences of the majority of users should be protected. However, the DEIS concludes that the approximate 50/50 division between privately- and publicly-owned shoreline is adequate, yet far more than 50% of the lake’s millions of annual visitors access the lake via public lands. We understand discussions are under way with other entities interested in purchasing more shoreline land for public use;<sup>16</sup> the new Shoreline Plan provides an opportunity for TRPA to include stronger policies to support such acquisitions.

***The FEIS needs to examine the number of people who experience Tahoe via non-motorized means versus motorized means, and provide for a true fair share distribution and protection of user experiences that is reflective of these numbers. We also recommend the FEIS evaluate opportunities for additional public acquisition of privately-owned lands in the shorezone, as encouraged by the Regional Plan’s Goals and Policies.<sup>17</sup> The evaluation and emphasis of***

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<sup>14</sup> “Authorizing the placement of additional anchors to allow for adaptive repositioning of buoys could present enforcement issues. Development of a low lake adaptation enforcement program will need to address deterrents to an increase in mooring capacity. This program will need to engage with the buoy placement companies as well as the owners and users of buoys. The Steering Committee should consider enforcement and possible funding mechanisms to ensure compliance.” (3/6/2017 Low Lake Level Adaptation policy memo, p. 6; <http://shorelineplan.org/wp-content/uploads/2017/03/06-Low-Lake-Level-Adaptation-v7-3-13-17.pdf>)

<sup>15</sup> “Policy SZ-1.13: Allow public access to the shorezone where lawful and feasible on public lands. There is considerable demand for public use of the Lake Tahoe shoreline...Improved access to the shorezone should be provided through public lands from expanded public ownership...” (DEIS, p. 8-3)

<sup>16</sup> E.g. “There is a group of dedicated individuals and agencies that are taking a hard look at open space acquisition opportunities in order to better public recreation.” (May 2018 TRPA GB minutes, p. 11)

<sup>17</sup> “SZ-1.13 ALLOW PUBLIC ACCESS TO THE SHOREZONE WHERE LAWFUL AND FEASIBLE ON PUBLIC LANDS...There is considerable demand for public use of the Lake Tahoe shoreline. Increased opportunities to use the shoreline shall be provided when consistent with the tolerance levels of the shorezone. Improved access to the shorezone should be provided through public lands from expanded public ownership...” [Emphasis added]