



June 7, 2024

To: Nevada Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System – Meeting June 7, 2024, Tahoe@lcb.state.nv.us

Re: Public Comment Agenda Item II. - Public Comment

Honorable Chair Daly and Members of the Committee:

Please make this public comment part of the record and minutes in connection with your meeting today, 6-7-24.

These comments are being submitted on behalf of TahoeCleanAir.org, Incline Village, NV.

As President of TahoeCleanAir.org, I reside in Incline Village, NV.

My professional Fire Service career includes serving as Fire Marshall for the City of San Luis Obispo, CA, and City of Orange in Orange County, CA, then as a Fire Combat Battalion Chief for the City of Orange. I lived and worked in the Santa Ana Canyon in Orange County, CA. I am knowledgeable concerning fire spread and evacuation across all landscapes.

Note:

EIR = Environmental Impact Report.

EIS = Environmental Impact Statement.

TRCD = Tahoe Resource Conservation District.

2015 CCWP = The existing 2015 Lake Tahoe Basin Community Wildfire Protection Plan which is currently under revision.

NEW CWPP = The not yet revised CWPP to the current 2015 CWPP, often referred to as the 2013 CWPP.

EIP = Tahoe Regional Planning Agency Environmental Improvement program.

MOU – Memorandum of Understanding.

USFS = United States Forest Service.

This public comment touches on several aspects of the following Committee Agenda Items:

Agenda Item VI - Presentation Regarding Lake Tahoe Basin Forest Health and Wildfire Prevention Activities.

Agenda Item VII - Presentation Regarding Local Lake Tahoe Basin Evacuation Planning Activities.

Agenda Item VIII - Presentation Regarding State Lake Tahoe Basin Evacuation Planning Activities.

The USFS is an integral TRPA partner including as a member of the Metropolitan Planning Organization, the TRPA EIP and the TRPA MOU process.

TahoeCleanAir.org supports and applauds all efforts to prevent wildfires and manage our forests in line with applicable local, state, and federal regulations. This includes adherence to the National Environmental Policy Act (NEPA), California Environmental Quality Act (CEQA), US Clean Water and Clean Air Acts, and various other applicable local, state, and federal laws and regulations including California and Nevada clean water regulations, as well as the TRPA Compact, Regional Plan, Code of Ordinances and Rules of Procedure.

However, when it comes to USFS forest health, land management and wildfire attack policies and procedures, both within the Lake Tahoe Basin and nationally, differences of opinion abound, resulting in passionate disagreements and often times lawsuits such as the Ninth Circuit opinion in connection with these practices. **See with Bark vs USFS link here:** <https://law.justia.com/cases/federal/appellate-courts/ca9/19-35665/19-35665-2020-05-04.html>

To this end, I hope the committee and legislative analyst will carefully review my comments below.

1. **The TRPA and the USFS have failed to monitor, and abate, up to 750,000 Hazard Slash Piles within the Tahoe Basin. This requires immediate attention. Therefore, I request this committee recommend that the TRPA and the USFS provide a comprehensive report within to this committee and the legislature detailing past TRPA and USFS slash pile monitoring over the last ten years including the current locations, numbers and original creation dates of these slash piles. The report should lay out a comprehensive plan to cease the creation of new slash piles until the current public safety hazard slash piles are abated.**
2. **I request the committee recommend, in the interest of public safety, the TRPA determine a cumulative hazard pile threshold in the Lake Tahoe Basin.**

As a TRPA integral EIP forest health partner, TRPA appears to have, for more than a decade, failed to monitor the dangerous accumulations of up to 750,000 slash piles created within the Lake Tahoe Basin, caused largely on the part of the USFS. These slash piles sit as attractive fire hazard nuisances and **serve as an immediate threat to life and safety of residents and visitors alike, as well as property, wildlife, the economy and the forest itself.** This failure to monitor, identify and abate this growing public safety threat represents negligence on the part of the TRPA and its USFS “partner.” (See – Tahoe Fund “Fun Facts”) here <https://www.tahoefund.org/uncategorized/lake-tahoe-fun-fact-750000/>

The new **CWPP** must transparently discuss and create a balanced action plan to prioritize the removal of these 750,000 slash piles from the Lake Tahoe Basin. These piles were created as part of the USFS **nationwide policy practice**, knowing full well that Federal and State regulations would make it almost impossible to eventually burn them. This has resulted in the creation of perhaps millions of hazard piles nationwide. Rather than providing the necessary planning leadership ahead of this cumulative environmental and life safety threat, Government agencies including the TRPA and USFS continue at an accelerated pace to create more hazard piles every day without a cap.

The new CWPP needs to contain a **priority ACTION ITEM** to strongly recommend that the TRPA immediately create a cumulative impact hazard pile **threshold** within the basin, based on a data driven environmental cumulative impact EIS/EIR. Prudent leadership and environmental planning on the part of the TRPA and its “partner agencies, should have created this threshold decades ago as the hazard piles began to mount up. At this point, without such a threshold, this cumulative practice represents a substantial and immediate environmental and life safety threat to the entire basin and allows an uncapped hazard creation glidepath.

Again, this is a blanket **nationwide** government practice that has been applied as a one size fits all practice within our unique Tahoe environmental and geographic basin setting. With its unique slope and wind environment the basin should not be forced into this dangerous “one size fits all” practice.

The USFS must stop deflecting the reason for their inaction. This, by blaming national air quality and water quality laws for the accumulation of these hazard piles and getting to work to solve the problem. Additionally, the TRPA needs to stop providing half-truth TRPA spin messages claiming forest thinning projects as completed under their Environmental Improvement Project, when in reality these projects are not completed and have actually added a massive immediate 750,000 hazard pile chain reaction threat to the Tahoe Basin.

Additionally, safe burn pile planning and execution is crucial. We need only reference the recent escaped prescribed burns associated with the Caples restoration project during snow conditions and the Little Valley

escaped burn, accelerating at high speed down the mountain, all the way to Washoe lake wiping out homes and area ranches.

<https://sofarcohesivestrategy.org/wp-content/uploads/2020/04/Caples-Escape-Fire-Review.pdf>

<https://www.kolotv.com/content/news/Little-Valley-Fire-report-Review-finds-questionable-actions-in-prescribed-burn-413900883.html>

- 3. I request the committee recommend that TRPA develop evacuation thresholds of significance based on data driven roadway evacuation capacity analyses, and that future development, projects and code changes are approved only after substantial data driven evidence determines via an EIS/EIR that compliance is achieved within TRPA evacuation thresholds.**

For reference, new information links since the 2015 CWPP, demonstrating wildfire devastation including loss of life during community wildfire evacuation are Included below.

Maui - First reported fire was at night. Reports are that the eventual main fire was moving at one mile a minute.

<https://www.youtube.com/watch?v=OhvdKAiKmo8>

Paradise Fire (Camp Fire) victims and location where each victim died. Reports from Cal Fire estimated, once underway it was burning one football field in size every 3 seconds.

<https://www.kcra.com/article/these-are-the-victims-of-camp-fire/32885128>

CalFire Video Part 3 – Aftermath – Paradise Fire

<https://www.youtube.com/watch?v=ZKgsiMpV4Mk>

- 4. I request the committee investigate the US Forest Service practice of “Wildfire Use” for forest resource purposes, as an immediate threat to all living things within the Lake Tahoe Basin as well as the MOU and EIP relationship with the TRPA.**

Not only is this out-of-control practice highly destructive but many believe the US Forest Service is largely responsible for the dramatic increase in fire insurance rates not only here in the Lake Tahoe Basin and Nevada, but nationwide.

This, due to the practice of “Wildfire Use” that remains in effect today as part of the USFS Lake Tahoe Basin Management Unit Forest Plan. Please see the links below as this practice directly impacts the Lake Tahoe Basin.

- Link to a recent Nevada Globe News Article – Burn Back Better
<https://thenevadaglobe.com/fl/burn-back-better-usfs-chiefs-letter-of-intent-provokes-revolt-in-the-firefighting-community/>
 - Link to US Foret Service – Burning The West On Purpose
<https://static1.squarespace.com/static/64148b655dc36a6ea811d09e/t/6418ba0cf1f5b02f4dac827a/1679342094578/Second+of+four+News+Artices+Wildlife+Impact+Overview+-+Intentional+USFS+Burning+3.1.23.pdf>
- 5. I request the committee recommend that the new CWPP includes a recommendation to encourage creation of Lake Tahoe Basin Joint Powers Authority (JPA) Wildfire Air Attack Group. This to build on Douglas County’s Fire Protection District efforts through Chief Lindgren’s original concept to secure funding to purchase, maintain and operate at minimum, at least two multi use helicopters with night flight capability as well as ongoing funding for the required crew.**

One helicopter is not enough to help ensure undeniable initial attack of a fast-moving wildfire within the Lake Tahoe Basin.

- 6. I request the committee recommend that the new CWPP include discussions regarding the following items:**
 - A. In the spirit of transparency, I would suggest that once the new CWPP is completed, TRCD and its stakeholders not only conduct several public workshops, but additionally provide an adequate public review and comment period of at least 90 days.**

- B. It is important that the new CWPP be based on objective data driven from substantial evidence that supports findings, proposed priorities, and actions.
- C. The following clarifications need to be made by the TRCD:
 - Is the reference to “wildfire management” mentioned below, meant to include, within the Tahoe Basin, the various methods of wildfire management procedures in place by the USFS since 1978, which include among other tactics, Minimum Impact Suppression Tactics (MIST), and **Wildfire Use (WFU)**, of which additionally includes purposely growing wildfire. **OR** does Wildfire Management in this case simply refer to forest management in connection with wildfire prevention?

A recent “Living with Fire” webpage titled “Tahoe Basin Community Wildfire Plan update” states:

*The purpose of the CWPP update is to ensure that the plan remains current and reflects the changing conditions and needs of our community. It will incorporate the latest technology and best practices for **wildfire management** and prevention, as well as the input and feedback of community members.*

CWPPs are essential as they help reduce the risk of catastrophic wildfires and increase the resilience of communities.

Link here: <https://www.tahoelivingwithfire.com/resources-tahoe-basin-wildfire-protection-plan-update/>

- D. With regard the latest “best practices” mentioned above, I suggest the new CWPP, along with other eventual recommended actions, including forest management, home hardening and To Go-Bags, include a priority action item recommendation that the TRPA within its Code of Ordinances and Rules of Procedures, as well as its “partner” agencies immediately reference and follow the California Attorney Generals October 2022 CEQA “Best Practices for Analyzing and Mitigating Wildfire impacts of Development Projects”. These recent best practices were published seven years after the 2015 plan and should be considered new and significant information to help avoid injury and death during a wildfire. <https://oag.ca.gov/system/files/attachments/press-docs/Wildfire%20guidance%20final%20%283%29.pdf>
- E. This California AG best practices document is of significant and critical life safety planning importance for the entire Lake Tahoe basin. This, when it comes to assisting all development and approval agencies with the best planning tools, thereby helping to ensure the prevention of loss of life and injury during wildfire. This includes providing life safety planning which considers multiple basin wide worst case event scenarios, which take into consideration, data driven roadway by roadway evacuation capacity evaluation during wildfire events.

The guidance document “*was based on the California Attorney General’s experience reviewing, commenting on, and litigating CEQA documents for projects in high wildfire prone areas,*” and is relevant to both Nevada and California and contains among other critical SAFETY statements and guidelines the following:

Development in fire-prone areas increases the likelihood that more destructive fires will ignite, fire-fighting resources will be taxed, more habitat and people will be put in harm’s way or displaced, and more structures will burn.

*This guidance provides suggestions for how best to comply with CEQA when analyzing and mitigating a proposed project’s impacts on wildfire ignition risk, emergency access, **and evacuation and should be part of a basin wide emergency planning and wildfire evacuation strategy.***

- *Put simply, bringing more people into or near flammable wildlands leads to more frequent, intense, destructive, costly, and dangerous wildfires.*
- *Evacuation modeling and analysis should include among other items the following:*

- 1) Evaluation of the capacity of roadways to accommodate project and community evacuation and simultaneous emergency access.
 - 2) Assessment of the timing for evacuation.
 - 3) Identification of alternative plans for evacuation depending upon the location and dynamics of the emergency.
 - 4) Evaluation of the project's impact on existing evacuation plans.
 - 5) Consideration of the adequacy of emergency access, including the project's proximity to existing fire services and the capacity of existing services.
 - 6) Traffic modeling to quantify travel times under various likely scenarios.
- Consider impacts to existing evacuation plans, but recognize that, depending on the scope of an existing evacuation plan, additional analyses or project-specific plans may be needed.
 - Community evacuation plans often identify roles and responsibilities for emergency personnel and evacuation routes, but do not necessarily consider the capacity of roadways, assess the timing for community evacuation, or identify alternative plans for evacuation depending upon the location and dynamics of the emergency.

Local jurisdictions are encouraged to develop thresholds of significance for evacuation times. These thresholds should reflect any existing planning objectives for evacuation, as well as informed expert analysis of safe and reasonable evacuation times given the existing and proposed development.

Local jurisdictions should consider whether any increase in evacuation times for the local community would have a significant impact. The conclusion that an increase in evacuation times is a less than significant impact should be based on a threshold of significance that reflects community-wide goals and standards. Avoid overreliance on community evacuation plans identifying shelter-in-place locations. Sheltering in place, particularly when considered at the community planning stage, can serve as a valuable contingency, but it should not be relied upon in lieu of analyzing and mitigating a project's evacuation impact.

Further, adding an Action Plan recommendation to the 2023 plan, stating that the TRPA within its Code of Ordinances and Rules of Procedures, as well as its "partner" agencies immediately reference and follow the October 2022 CA AG best practices, would be in line with supporting the definition of "Fire Adapted Communities" program.

Without debating the more controversial aspects of fire adapted communities, here are two Fire Adapted Communities definitions from the 2015 CWPP and the National Cohesive Wildland Fire Management Strategy:

- *The National Cohesive Wildland Fire Management Strategy, Chapter 1 states: "Fire Adapted Communities will be composed of human populations and infrastructure that can withstand a wildfire **without the loss of life and property**". (In this case preventing loss of life must include critically needed basin wide evaluation of adequate roadway wildfire evacuation capacity. Roadways are infrastructure).*
- *Additionally, a Fire-adapted community is described as– Human communities consisting of informed and prepared citizens collaboratively **planning** and taking action to **safely co-exist with wildland fire**. (In this case, preventing loss of life must include critically important basin wide evaluation of roadway-by-roadway wildfire evacuation capacity).*

To build on my suggestion to link the October 2022 California Attorney General best practices, it is noteworthy to mention that past practices are an integral part of the 2015 CWPP plan. The Calif AG Best practices should be added as a priority.

References to the best practices are listed below.

Examples of 2015 plan "Best Practices" or references to "best"

- Page 3 - The purpose of this assessment is to create a framework for communities to use to identify actions that will best prepare that community for the identified hazard.
- Page 14 - including public information about sustainable gardening and plant species consistent with defensible space “best practices” and requirements.
- Page 20 –This section identifies your community’s social capital, processes, **connectedness, and capacities** (e.g., what, and how are resources being used, to what extent can “best practices” be implemented, what are the barriers and limitations to mitigation)
- Page 57 - These regulations specify and limit activities near water bodies and require use of “best practices” and erosion control methods to prevent significant degradation of water quality.
- Page 59 - and (3) project “best management practices” are followed.
- Page 69 - How can government agencies “best” help the public to achieve their roles and responsibilities?
- Appendix: Survey properties and recommend “best practices” for the homeowners to prepare their property. Plan for evacuations and educate the public.

As I read the TRCD electronic survey and review the 2015 CWPP, I am struck by the avoidance of discussing resident life safety during a wildfire evacuation, beginning with the electronic survey Question #1.

i.e., Question 1: What do you value in your community? (Please rate how much you value each of the following in your community when it comes to wildfire).

Question 1 is ambiguous at best. i.e., asking to rate each item, one may value when it comes to wildfire.

The twelve choices listed under Question 1 include, among other items, trails, casinos, and tourism.

The survey question left out at least four critical life safety priority items as follows: (As written, this could be interpreted as suggesting community devaluation of the following during wildfire by leaving these four items out of the survey choices? If so, why? OR was this an oversight?)

- Residents
- Public Safety
- Law Enforcement
- Safe Roadway Wildfire Evacuation Capacity

If the survey is going to place Fire Departments on the list, which of course it should, the survey should have also placed “Law Enforcement” on the list. Since (not widely known to the public), law enforcement is generally in charge of public evacuation. These critically important life safety terms should have appeared at the top of the survey list.

Of course, I, and assuming most others, value all human life, natural resources, and well-planned community and economic infrastructure within the Lake Tahoe basin, not just the lives of tourists as well as casinos, and trails.

As an important reference point, and while withholding opinion regarding the pros and cons of the formally proposed 59,000 + acre Lake Tahoe West project is the following is worth mentioning:

On November 30, 2016, a coordinator for the Tahoe Fire and Fuels Team, made the following statement at the inaugural meeting of 59,000-acre Lake Tahoe West Restoration Project: ***“Restoration and defensible space can be compatible. Someday in the future, fire will again be part of the landscape’s ecology, even roaming in our backyards without being a threat to our communities.”***

Given this, the new CWPP should consider an action item to transparently discuss the ramifications and expectations regarding whether or not **“fire roaming in our backyards without being a threat to our communities,”** is indeed a goal of the TRCD and its stakeholders “Living with Fire” and “Fire Adapted Communities” programs. Or is this statement simply one person’s opinion?

Sincerely,
Doug Flaherty, President
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TahoeCleanAir.org Organizational Purpose

Tahoe Sierra Clean Air Coalition (DBA TahoeCleanAir.Org) is a Nevada 501 (c) (3) non-profit corporation registered to do business in the State of California. Our organizational purpose extends beyond protecting clean air, and includes, among other purposes, protecting and preserving natural resources, including but not limited to clean air, clean water, including lake and stream clarity, soils, plants and vegetation, wildlife and wildlife habitat including wildlife corridors, fish and fish habitat, birds and bird migration, insects, forest and wilderness from adverse environmental impacts and the threat and potential of adverse environmental impacts, including cumulative adverse impacts, within the Nevada and California Sierra Range, and its foothill communities, with corporation/organization geographical purpose priority being that of the Lake Tahoe Basin. Our purpose further extends to all things incidental to supporting environmental impact assessments and studies, including the gathering of data necessary to analyze the cumulative adverse environmental, health and safety impacts from public and private projects inside and outside the Lake Tahoe Basin, and addressing and supporting safe and effective evacuation during wildfire. Our purpose further extends to supporting transparency in government to ensure that our purpose and all things incidental to our specific and primary purposes are achieved.