FINDING AND RECOMMENDATION(S)

Submitted by: Bud Hicks

Finding:

The lack of clarity as to what constitutes a stream environment zone and the conflicting interpretations by the various agencies as to whether an area is a SEZ has led to confusion among property owners and contractors trying to clear stream environment zones of hazardous fuels materials and has therefore discouraged such activities.

Background and Supporting Evidence:

There is no uniform definition or statement of the standards which determine whether an area is, in fact, a stream environment zone, and the lack of such a uniform, clear statement of what constitutes a stream environment zone has resulted in conflicting and subjective determinations within agencies and among agencies having jurisdiction over environmental matters affecting SEZs.

Stream Environment Zones ("SEZs") in the Lake Tahoe Basin pose both extreme fire risks and extraordinary environmental challenges. In times of fire, such as both the Pioneer Fire and the Angora fire, the fires quickly changed from surface fires to crown fires because SEZs in the areas affected were untreated and allowed the fires to quickly move through untreated fuel materials. Commentators have referred to the SEZs in these areas as operating like "candle wicks" during times of fire. SEZs are also pathways through which pollutants travel into the Lake, thereby directly affecting Lake clarity.

Removal of fuels from and restoration of SEZs is necessary in order to reduce fire hazards, particularly in SEZs located within or leading into or out of communities, and within the Wildland Urban Interface ("WUI") surrounding such communities. Unless such efforts are quickly undertaken, the SEZs will continue to pose significant and unacceptable fire risks to communities in the Lake Tahoe Basin.

Protection of the Lake's clarity should continue as one of TRPA's top priorities, but it is not and should not be the only priority of the TRPA. Protection of life and property from catastrophic fire is and should be of greater priority to the TRPA

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and other agencies having jurisdiction over environmental matters within the Lake Tahoe Basin. Further, given the fire hazards posed to communities within the Basin by uncleared SEZs, there are substantial and unnecessary risks of fire within and surrounding the populated areas within the Basin.

No definitive study has been done to measure or estimate the effects of catastrophic fire within the Tahoe Basin on the Lake and its clarity, nor has any study ever been done to contrast the impacts of the low density fires historically experienced by the Basin's forests to the potential impacts of multiple or numerous catastrophic fires such as evidenced by the Angora Fire and as should be expected in the future, given the poor present condition of the Basin's forests and resultant extreme fire risk. In the absence of information to the contrary, it is prudent and necessary to assume that the effects of catastrophic fire within the Lake Tahoe Basin would be devastating to the Lake's clarity and to past and present efforts to halt degradation of its clarity.

In recognition of such risks and of the dangers inherently posed by the Basin's poorly maintained SEZs, the TRPA and some other agencies having jurisdiction over environmental matters affecting SEZs have made regulatory changes that allow for the use of low impact mechanized equipment in SEZs; mechanized equipment with less compactive forces than pick-up trucks have been identified. However, very few projects have been approved that allow for these practices due to complexities and delays in the permitting process and the lack of availability of low impact equipment required by current standards. Further, there are few contractors willing to undertake SEZ clearance projects due to the complexities and delays in the permitting process and inconsistent and different interpretations of the areas that constitute SEZs.

Recommendation(s)

Recommendation 1: The Governors of the States of California and Nevada should request the TRPA Governing Board to expeditiously establish within its ordinances a clear definition, in plain English, setting forth what constitutes a stream environment zone for the purposes of clearing such areas of hazardous fuels, with a view towards eliminating subjective determinations as to such matters and encouraging the clearing of SEZs within populated areas of the Basin and the surrounding WUI. This definition should be applied uniformly on a Basin-wide basis, and the Lahontan Water Control Board and all other agencies having jurisdiction within the Basin should be obligated to apply the same definition and standards in determining what constitutes a stream environment zone for their own regulatory purposes within the Basin. To that end, it is recommended that the Governor of the State of California request or direct (as the case may be) the California Regional Water Control Board/Lahontan Region to adopt and follow the definition and standards adopted by the TRPA as being applicable to fuels reductions projects conducted in SEZs.

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<u>Recommendation 2</u>: The regulatory restrictions and limitations presently existing, even as presently modified by the TRPA, the Lahontan Water Control Board, and other agencies having jurisdiction over environmental matters affecting SEZs should be further modified and relaxed, on an expeditious basis and no later than the beginning of the 2008 fire season, to allow the use of mechanical equipment and vehicles within SEZs to allow for the effective, efficient, and economical removal of hazardous materials. Restrictions regarding the use of mechanized equipment in such areas should be greatly and substantially reduced to make such cleaning and clearing activities within SEZs feasible over a period of time reasonably necessary to complete the CWPP projects relating to the various communities located within the Lake Tahoe Basin .

Impacts of Implementation: *(The implementation of any Recommendation is likely to have specific impacts. Consider potential consequences related to each of the following areas)***:**

Analysis of impacts on the following factors is REQUIRED (Best Estimate):

- ☐ Cost
- ☐ Funding source
- ☐ Staffing
- ☐ Existing regulations and/or laws

Analysis of impacts on the following factors is OPTIONAL:

- ☐ Operational
- ☐ Social
- ☐ Political
- ☐ Policy
- ☐ Health and Safety
- ☐ Environmental
- ☐ Interagency

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