California Tahoe Conservancy
Agenda Item 8d
July 17, 2014

ANNUAL UPDATE OF LAND BANK ACTIVITIES

The Conservancy's Land Bank acquires properties and/or marketable rights from willing sellers, restores the land and banks the marketable rights. Land coverage and/or marketable rights are then made available through a public process. Revenue furthers the Land Bank acquisition program. It should be noted that Land Bank acquisitions are distinct from environmentally sensitive acquisitions. The Board authorizes the ability to fund, acquire, and transfer or sell a property's marketable rights which are acquired for Land Bank use.

To date, the Conservancy has completed more than 7,000 market-based transactions of coverage and marketable rights.

In June 2013 the Conservancy Board authorized the allocation of all marketable rights in the Land Bank, making them available for sale on an as-needed basis. In previous years staff had requested Board approval for a limited amount of rights based upon staff's one year projection of demand. This practice led to confusion among the public and increased recording errors. The shift from an annual authorization to an update streamlines record-keeping and increases public transparency.

The Board maintains the authority to adjust the inventory by removing or including available coverage, restoration credits, and marketable rights. All Land Bank transactions must comply with the TRPA Code of Ordinances, and be consistent with Conservancy guidelines. Land Bank projects requiring environmental review (CEQA) are subject to Board review and approval.

For additional information on the Land Bank, including prices and forms, visit: http://tahoe.ca.gov/coverage-marketable-rights.aspx.

Key Land Bank Issues

TLC Program

In December 2013, Conservancy staff issued a draft strategy, known as Tahoe Livable Communities (TLC), to focus its land acquisition, asset lands, and land bank programs on achieving the goal of the Regional Plan to promote more walkable, bikable communities. In the past, the Conservancy made its land bank assets available on a first come, first served basis, rather than to achieve any specific objectives. Under the TLC Program, by contrast, the Conservancy would work closely with local jurisdictions to acquire and sell land and other marketable commodities to fulfill the goals of area plans and other environmental goals. For example, the Conservancy would acquire aging, developed properties and then retire or transfer the development rights to town centers.

At the Conservancy's May Board meeting the Board authorized staff to acquire three such properties in South Lake Tahoe: the Alta Mira building property, the South Y Lodge, and the Tahoe Valley Commercial property. Through these purchases, the Conservancy also acquired 22,195 square feet of coverage, 5,310 square feet of Commercial Floor Area (CFA), nine Tourist Accommodation Units (TAU), and three Existing Residential Units of Use. In the next several months, the Conservancy and local jurisdictions will determine whether they have an interest in acquiring some or all of these commodities to fulfill the goals of their area plans. Placer County, for example, may be interested in purchasing TAUs to support a new hotel in Tahoe City, and the City of South Lake Tahoe may be interested in acquiring CFA to facilitate development in its town centers.

Conservancy staff met with each of the local jurisdictions and other interest groups to seek comment on the TLC Program. In general, there is strong support for Conservancy acquisitions of blighted, developed property on or adjacent to sensitive lands. There is less agreement on how the commodities associated with these acquisitions should be allocated. Attachment 4 includes a summary of stakeholder and agency comments.

Acquiring Development Rights

Some stakeholders have recommended that the Conservancy become more active in buying and selling development rights directly rather than acquiring them incidentally through purchases of land. For example, a motel owner seeking to remodel by transforming its 40 small, outdated rooms to 20 larger, more efficient and modern rooms could sell the excess TAUs to the Conservancy to help finance the improvements. The Conservancy could then retire or sell the units to help facilitate redevelopment in town centers, and invest the revenue in acquiring or restoring additional properties.

Acquiring any Developed Properties

Other stakeholders have recommended that the Conservancy not limit itself to acquisitions of developed property on environmentally sensitive land, since retiring or transferring the marketable rights of any developed commercial property, particularly those outside of town centers, could help to reduce and/or cluster development. In most cases, however, the greatest environmental benefits can be obtained by acquiring and restoring properties on sensitive land.

Acquiring Residential Properties

The Conservancy has also been urged to consider acquiring developed residential properties on sensitive land (in addition to commercial and tourist accommodation properties) since the floor area associated with these properties can also be converted into other marketable rights and transferred to town center locations.

The Transferable Development Rights Marketplace

TRPA compliant landowners may choose to acquire additional marketable rights from the Land Bank or a private party. Over the years, buyers have expressed difficulty finding private sellers during times of diminished Land Bank supply.

To remedy this situation, a multi-agency effort created the Transfer of Development Rights Marketplace housed on the TRPA website, (http://www.trpa.org). The respective Land Banks and private buyers post marketable rights for sale on this site. Sellers visit this site to acquire marketable rights. The result is simplicity for all parties since this information is now in one location.

The marketplace went live this spring. The average site visitation is 150 times per month. As of May 16, 2014, there were 25 posts on the exchange: 24 commodities for sale, 1 receiving site, and 19 coverage related posts.

TRPA Coverage Working Group

The TRPA Governing Board requested that TRPA staff complete a detailed review of coverage transfers across hydrologic areas (HRA). The Conservancy is working with TRPA staff and stakeholders to consider possible changes to regulations governing coverage transfers across hydrological areas. Discussion items considered by the working group include but are not limited to:

- allow coverage transfers across HRAs;
- maintain existing coverage transfer restrictions;
- allow transfers across HRA boundaries to facilitate environmental redevelopment and out of sensitive lands; and
- redefine the HRA boundaries.

The working group convened in January of 2014 and plans to have a complete environmental review and Governing Board approval by December of 2014.

Fiscal Year 2013/14 Overview

As noted above, the Conservancy has facilitated the development of over 7,000 projects. Table I below summarizes the Land Bank's project activity to date, in terms of projects served, coverage provided, mitigation fees collected and revenues earned.

Table I
Conservancy Land Bank Cumulative Totals
Projects Facilitated through April 30, 2014

Project Category		Number of Projects Served	Coverage Provided (Sq. ft.)	Units Provided (Units)	Revenues ($)
Land Coverage Related	TRPA Excess Coverage Mitigation *	5,747	1,254,146	-	8,176,935
	Open Market Transfers	1,034	771,876	-	5,092,954
	Public Service Transfers:				
	-Sales	37	65,716	-	379,997
	-Exchange or Grant	16	248,889	-	0
	Restoration Credit	83	177,205	-	417,514
	Sub Totals:	**6,917**	**2,517,832**	**-**	**$14,067,400**
Other Marketable Rights	Other Marketable Rights:	**Projects**	**Units Provided (Sq. ft.)**	**Units Provided (Units)**	**Revenue ($)**
	Commercial Floor Area	8	8,151	-	278,912
	Tourist Units	2	-	16	30,300
	Sewer Units	12	-	29	77,925
	Residential Development Rights	80	-	137	322,150
	Existing Residential Units	6	-	6	275,300
TOTALS:		**7,025 Projects**	**Coverage: 2,517,832 sq. ft.** **CFA: 8,151 sq. ft.**	**188 Units**	**$15,051,987**

*The number reported for TRPA Excess Coverage Mitigation represents the total fees collected by TRPA over the life of the Program.

As shown in Table II below, the Conservancy has acquired, sold, used, or reserved coverage for the following purposes:

1) Provide coverage under the excess coverage mitigation fee program
2) Provide coverage for Caltrans and Placer County Memorandum of Understanding (MOU) projects
3) Provide coverage for public and Conservancy projects
4) Sell coverage on the open market to individuals and businesses
5) Reserve coverage for future Conservancy and public service projects

Each of these purposes is divided into separate columns in the following table. In summary, the Conservancy began with an inventory balance of 3,425,933 square feet of coverage and restoration credits as of April 1, 2013. During the 12 months ending April 30, 2014, the Conservancy used 96,945 square feet to satisfy excess coverage, increased coverage and restoration credits by a net 82,679 square feet for public and Conservancy projects, increased coverage and restoration credits by a net 74,426 square feet for open market sales, and has a reserve balance of 1,310,419 square feet, leaving an ending inventory balance with applied reserves of 2,175,674 as of April 30, 2014.

Table II								
Land Bank Coverage Transactions - Square Feet								
For the Period April 1, 2013 through April 30, 2014								
	Begining Inventory Balance	**Excess Coverage**	**CalTrans MOU**	**Public & CTC Projects**	**Open Market Sales**	**Ending Inventory Balance**	**Reserve Balance**	**Ending Inventory Balance with Applied Reserves**
South Stateline HRA								
Potential Coverage	670,132	-		(64)	27,038	697,106	(328,657)	368,449
Hard Coverage	-	-	-	-	-	-	-	-
Soft Coverage	-	-	-	-	-	-	-	-
Total Coverage	670,132	-	-	(64)	27,038	697,106	(328,657)	368,449
Upper Truckee HRA								
Potential Coverage	1,402,847	-	-	-	(1,199)	1,401,648	(424,698)	976,950
Hard Coverage	66,106	(66,106)	-	-	-	0	-	0
Soft Coverage	46,033	-	-	-	-	46,033	-	46,033
Total Coverage	1,514,986	(66,106)	-	-	(1,199)	1,447,681	(424,698)	1,022,983
Emerald Bay HRA								
Potential Coverage	1,200	-	-	-	-	1,200	-	1,200
Hard Coverage	-	-	-	-	-	-	-	-
Soft Coverage	-	-	-	-	-	-	-	-
Total Coverage	1,200	-	-	-	-	1,200	-	1,200
McKinney Bay HRA								
Potential Coverage	36,643	(349)	-	-	(1,039)	35,255	(35,255)	0
Hard Coverage	-	-	-	-	-	-	-	-
Soft Coverage	-	-	-	-	-	-	-	-
Total Coverage	36,643	(349)	-	-	(1,039)	35,255	(35,255)	0
Tahoe City HRA								
Potential Coverage	702,561	(30,491)	-	(32)	(61,387)	610,651	(35,605)	575,046
Hard Coverage	-	-	-	-	-	-	-	-
Soft Coverage	-	-	-	-	-	-	-	-
Total Coverage	702,561	(30,491)	-	(32)	(61,387)	610,651	(35,605)	575,046
Agate Bay HRA								
Potential Coverage	447,402	-	-	-	108,230	555,632	(389,590)	166,042
Hard Coverage	-	-	-	-	-	-	-	-
Soft Coverage	-	-	-	-	4,387	4,387	-	4,387
Total Coverage	447,402	-	-	-	112,617	560,019	(389,590)	170,429
Restoration Credit	53,009	-	-	82,775	(1,604)	134,180	(96,614)	37,566
Total Coverage	3,425,933	(96,945)	-	82,679	74,426	3,486,093	(1,310,419)	2,175,674

Excess Coverage Mitigation

The Conservancy's obligation to retire coverage under the Excess Coverage Mitigation (ECM) requirements remains problematic. Table III below documents the Program's ECM obligation balance of 128,749 square feet as of January 1, 2013 with an additional obligation incurred of 14,805 square feet for the period January 1, 2013 through April 30, 2014. The existing Land Bank inventory can satisfy 96,945 square feet of the additional obligation. The Conservancy will permanently retire coverage from existing inventory parcels originally purchased and/or restored with mostly bond funds.

The use of ECM fees under the newly adopted TRPA Regional Plan is no longer restricted to HRAs as of February 11, 2013. Therefore the Land Bank has used 13,761 square feet of potential coverage in Tahoe City HRA to satisfy a portion of ECM obligations that originated outside of the Tahoe City HRA. To satisfy hard coverage ECM obligations, the Land Bank used 66,106 square feet in Upper Truckee HRA for an ECM obligation that originated in Upper Truckee and South Stateline HRAs. The Conservancy will present to TRPA a list of the APN's and coverage of sending parcels used to satisfy the ECM and request reimbursement at $8.50 per square foot (rate of $8.50 is set by TRPA), pending approval by TRPA.

Table III				
Excess Coverage Mitigation (ECM) - Square Feet				
For the Period January 1, 2013 through April 30, 2014				
	Begining ECM Obligation	**Additional Obligation**	**Mitigation**	**Ending ECM Obligation**
South Stateline Hydrologic Area				
Potential Coverage	-	-	-	-
Hard Coverage	70,759	-	(65,443)	5,316
Soft Coverage	-	-	-	-
Total Coverage	70,759	-	(65,443)	5,316
Upper Truckee Hydrologic Area				
Potential Coverage	-	-	-	-
Hard Coverage	-	663	(663)	-
Soft Coverage	-	-	-	-
Total Coverage	-	663	(663)	-
Emerald Bay Hydrologic Area				
Potential Coverage	16,697	33	(16,730)	0
Hard Coverage	-	-	-	-
Soft Coverage	-	-	-	-
Total Coverage	16,697	33	(16,730)	0
McKinney Bay Hydrologic Area				
Potential Coverage	-	349	(349)	-
Hard Coverage	7,461	-	-	7,461
Soft Coverage	-	-	-	-
Total Coverage	7,461	349	(349)	7,461
Tahoe City Hydrologic Area				
Potential Coverage	-	13,761	(13,761)	-
Hard Coverage	1,412	-	-	1,412
Soft Coverage	-	-	-	-
Total Coverage	1,412	13,761	(13,761)	1,412
Agate Bay Hydrologic Area				
Potential Coverage	-	-	-	-
Hard Coverage	32,420	-	-	32,420
Soft Coverage	-	-	-	-
Total Coverage	32,420	-	-	32,420
Total Coverage	128,749	14,805	(96,945)	46,609

As of April 30, 2014, the Program is unable to address 46,609 square feet of the total ECM needs in California as reported by TRPA. This ECM liability consists of 5,316 square feet of hard coverage in the South Stateline HRA, 7,461 square feet of hard coverage in the McKinney Bay HRA, 1,412 square feet of hard coverage in the Tahoe City HRA and 32,420 square feet of hard coverage in the Agate Bay HRA.

If the Conservancy continues to face difficulties in replenishing the Program's coverage inventory, the Program's effectiveness will be significantly undermined. Currently, most of the funds needed to acquire, restore, and retire existing hard coverage are set using a formula that estimates existing coverage purchase/restoration at a cost of $8.50 per square foot. However, the estimated cost to acquire, restore, and retire existing coverage is now as much as fifteen times higher than the fee paid. Furthermore, the current market's scarcity of properties available for acquisition and restoration, and the deficit of over 128,000 square feet of land coverage for Excessive Coverage Mitigation make it difficult to satisfy our obligations.

The Conservancy continues to work on updates to the ECM program and MOU with TRPA. Staff believes the elimination of HRA restrictions for ECM is a positive step towards making the Program economicaly sustainable in the future. In addition, staff is considering proposals of a coverage impact score, use of a reverse auction, modification of the "dollars per square foot" requirement and restrictions on the use of future ECM funds to acquire and restore only existing land coverage as topics to be discussed under a revised MOU.

The Conservancy's Memorandum of Understanding with the California Department of Transportation

The Conservancy and California Department of Transportation (Caltrans) entered into a MOU on November 1, 2000. The Conservancy obtained control over property and incidental rights with a market value of $5,500,000 from Caltrans (the proposed U.S. Highway 50 freeway right-of-way). In return for the property and Rights, the MOU stated that the Conservancy shall provide 583,000 square feet of land coverage, mitigation or other restoration credits to be used by Caltrans for Environmental Improvement Projects and other transportation related projects within California's six HRAs. The term of the MOU shall be either 25 years ending October 31, 2025 or the transfer of 583,000 square feet of Conservancy Credits, whichever occurs first.

Table IV summarizes Land Bank activity towards meeting the outstanding obligation for the period April 1, 2013 through April 30, 2014.

Table IV	
CalTrans Coverage Obligation - Square Feet	
For the Period April 1, 2013 through April 30, 2014	
	Coverage Obligation - Square Feet
Beginning Balance - CalTrans Obligation	466,473
Potential Coverage	-
Restoration Credit	-
Ending Balance - CalTrans Obligation	466,473
Reserve - 88%	412,722
Ending Balance - with applied reserves	53,751

As of April 30, 2014 the Caltrans obligation remains at 466,473 square feet. Staff has reserved approximately 412,722 square feet of coverage, or 88% of the outstanding liability, as sufficient to address the MOU obligation with Caltrans.

Public Service Projects and Conservancy Projects

Public service projects benefit the public as a whole in some way, such as Caltrans, county, utility, or bike trail projects. During the 12 months ending April 30, 2014 the Conservancy sold or used 96 square feet of coverage necessary to complete these projects for approximately $704. The rights were provided for the AT&T Fern Avenue Telecommunications Cabinet and Liberty Utilities Blue Agave Transformer projects.

Open Market Sales

Homeowners and businesses often rely upon the Conservancy's open market sales to obtain the coverage necessary to secure permits for residential or commercial projects. During the 12 months ending April 30, 2014, the Conservancy sold 26,568 square feet of coverage through open market sales for approximately $66,834. Buyers were primarily single family homeowners.

The Conservancy recently processed and made available an additional 27,765 square feet of potential coverage for open market sales from previous coverage purchases and subsequent Board actions.

In anticipation of the transfer of the Conservancy Dollar property and adjacent ownership to State Parks, the Land Bank finalized a total reservation of 645,000 square feet of potential coverage for land bank purposes. To complete the reservation the Conservancy adjusted reservation balances between Tahoe City and Agate Bay hydrologic zones by reducing available coverage in Tahoe City by 64,897 square feet and increasing coverage in Agate Bay by 108,230 square feet.

Restoration Credit for Sensitive Lands

The Conservancy's primary source of restoration credits originates from numerous Environmentally Sensitive Lands (ESL) acquired under the Conservancy's ESL Program and Natural Resources Program and from litigation settlement acquisitions. Restoration Credits are similar to coverage but are considered a separate right. This right is comprised of coverage in Class 1-3, must be purchased at 1.5 times the need and not hydrologic-area specific.

As shown in Table II, the Conservancy restoration credit beginning balance as of April 1, 2013 was 53,009 square feet. For the period April 1, 2013 through April 30, 2014, the Conservancy provided 1,604 square feet of restored mitigation credit from sensitive land areas to assist two residential projects. Revenues totaled $32,080. The restoration credit inventory balance with applied reserves on April 30, 2014 is 37,566 square feet.

This spring, the Tucker Avenue, Elks Club Boat Launch, and Sunset West Trail restoration projects were verified complete. As a result, 82,775 square feet of SEZ restoration credit was added to the Land Bank. Restoration credit from all three projects was reserved for the Greenway Project. The Greenway project's restoration credit reserve thus increased from 13,001 square feet to 96,614 square feet.

Reserves

The Conservancy maintains coverage reserves for projects and obligations related to the Caltrans MOU, and known and measurable future public service projects, and Conservancy projects. The reserves reduce the available inventory balances presented in Table II. Placement of inventory into reserves may be for planning or administrative purposes, but actual disposal of Rights through sale or use would require Board approval if CEQA findings are needed or by staff under existing delegated authority. Table V presents total reserves by project as of April 30, 2014.

Table V	
Coverage Reserves - Square Feet	
as of April 30, 2014	
Type of Project	**Coverage Reserves**
Caltrans MOU	412,722
North Tahoe Bike Trail	361,518
City of South Lake Tahoe	110,000
Conservancy Greenway Project	96,614
El Dorado County Ball Field Easement	60,000
Tahoe Keys	60,000
South "Y" Asset Land	47,698
Unspecified Projects - Contingency	161,867
Total	1,310,419

Unspecified project reserves serve as a contingency and may be placed back into the inventory if no longer needed.

Land Bank Marketable Rights Transactions

The following Table VI summarizes the beginning balance of marketable rights. Please see Attachment 2 for a list of Land Bank definitions.

Table VI Land Bank Marketable Rights For the Period April 1, 2013 through April 30, 2014					
	Beginning Balance	Marketable Rights Conversion	Marketable Rights Bought	Marketable Rights Sold	Ending Balance
Residential Development Rights					
City of South Lake Tahoe	7	-	-	-	7
El Dorado County	92	-	1	-	93
Placer County	52	-	1	(9)	44
Sub-Total	151	-	2	(9)	144
Existing Residential Units of Use					
City of South Lake Tahoe	23	(5)	-	(1)	17
El Dorado County	2	-	-	-	2
Placer County	30	-	-	(1)	29
Sub-Total	55	(5)	-	(2)	48
Tourist Accommodation Units					
City of South Lake Tahoe	-	5	-	-	5
Sub-Total	-	5	-	-	5
Commercial Floor Area*					
City of South Lake Tahoe	228	-	-	-	228
El Dorado County	6,537	-	-	-	6,537
Placer County					
Kings Beach	12,312	-	-	-	12,312
Carnelian Bay	599	-	-	-	599
Sub-Total	19,676	-	-	-	19,676
Total Marketable Rights	19,882	-	2	(11)	19,873
* Commercial Floor Area is shown in square feet					

During the period April 1, 2013 through April 30, 2014 the Conservancy sold nine Residential Development Rights (RDRs) in Placer County for $67,500, one Existing Residential Unit of Use (ERUU) in the City of South Lake Tahoe for $17,000 and recorded one inventory reduction in Placer County. The Conservancy acquired two properties via bargain-sale in 2012 for $1,000 each. The marketable rights from the bargain-sale were added to the inventory as reflected in Table VI: one RDR in El Dorado County and one RDR in Placer County.

During the reporting period Conservancy staff converted five ERUU's to Tourist Accommodation Units (TAUs) for sale to the public. These ERUUs and TAUs are of the same origin - the former Timberlake Motel. Since this motel was originally a non-conforming use under TRPA Code, these banked TAUs can be sold as either TAUs, or converted to ERUUs or Commercial Floor Area (CFA). Since the private market reflects an increasing demand for TAUs, these rights are currently marketed for sale this year in both ERUU and TAU categories.

List of Attachments:

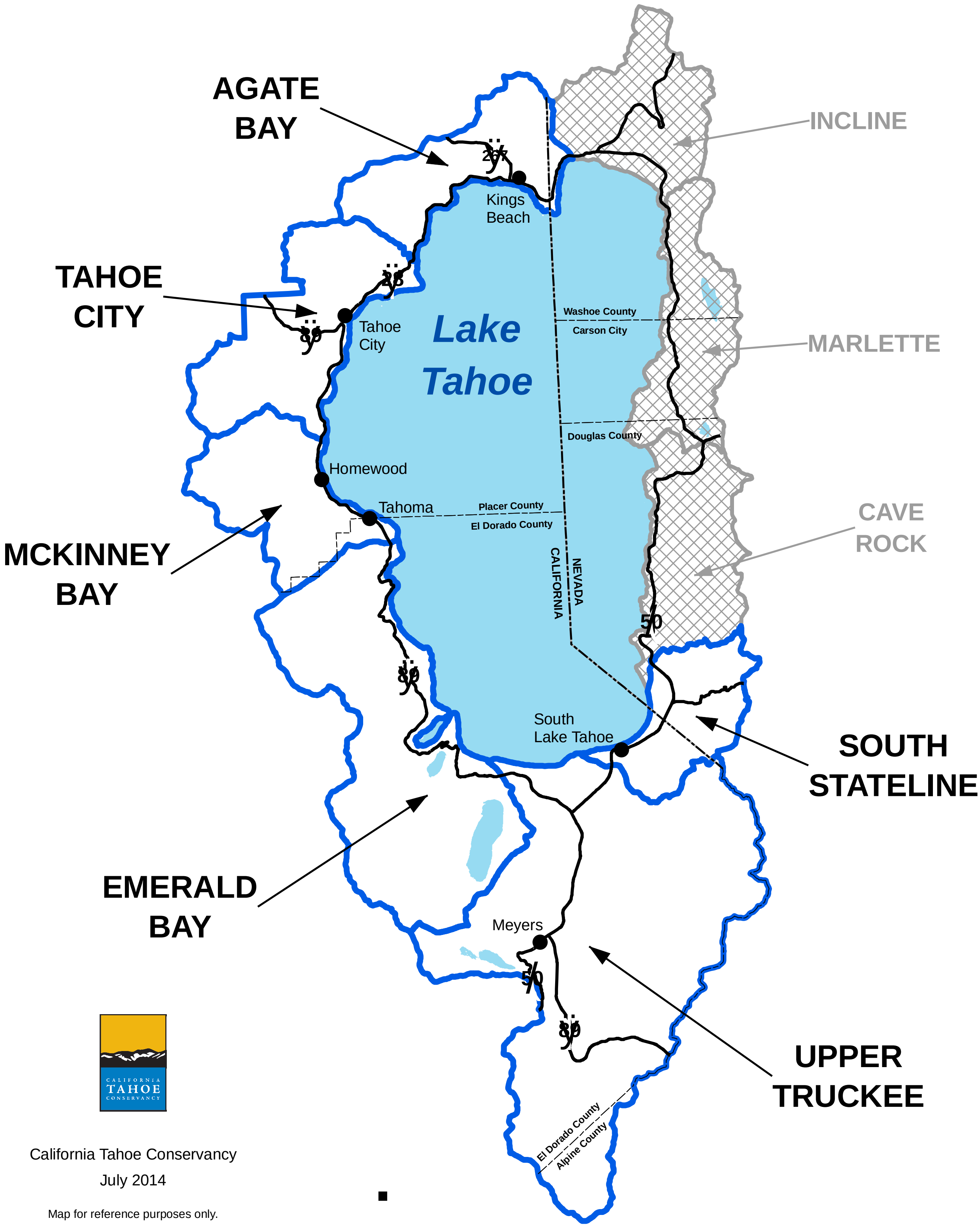
Attachment 1 – California Hydrologic Transfer Areas Map
Attachment 2 – Land Bank Definitions
Attachment 3 – Land Bank Overview
Attachment 4 – Key Issues Surrounding Transfers of Development in the Tahoe Basin

Conservancy Staff Contact:

Amy Cecchettini	(530) 543-6033	amy.cecchettini@tahoe.ca.gov
Kevin Prior	(530) 543-6016	kevin.prior@tahoe.ca.gov
Christine West	(530) 543-6006	christine.west@tahoe.ca.gov

ATTACHMENT 1

California Hydrologic Transfer Areas



California Tahoe Conservancy

July 2014

Map for reference purposes only.

Sources: USFS; TRPA; CaSIL

ATTACHMENT 2

LAND BANK DEFINITIONS

Allocation = Unit set aside for building. A set number of allocations are granted by TRPA to each jurisdiction annually.

Bailey system = Developed in the early 1970's by Tahoe Regional Planning Agency (TRPA) and U.S. Forest Service, Lake Tahoe Basin Management Unit (LTBMU) using U.S. Department of Agriculture (USDA) soils maps, the Bailey system gives all properties in the Lake Tahoe Basin an environmental rating between Classes 1-7. Class 1 is the most environmentally sensitive and contains the least amount of coverage rights. Class 7 is the most suitable for development, and contains up to 30% coverage. All commercial and multi-family properties contain a Bailey Score.

Base allowable land coverage = The amount of coverage that was originally assigned to a parcel under the Bailey or IPES system.

Commercial Floor Area (CFA) = The footprint of a commercial building located within the outer walls and designed for commercial use. Rating is by square footage and does not include stairs, parking areas, and walkways.

Excess Coverage Mitigation (ECM) = A property is already covered with structures, pavement, etc., is beyond the amount allowed under the TRPA Code of Ordinances. This coverage must be mitigated by retirement of coverage on the same parcel, a different parcel, or by paying a fee.

Hydrologically Related Area (HRA) = Groups of watershed areas located in the Basin. There are nine total hydrologic areas, six of which are in California (Attachment 1).

IPES System = Individual Parcel Evaluation System. Designed by TRPA in 1987, the IPES system scores any vacant residential parcel containing road access. Any parcel scored under IPES over-rules the previous

Bailey score. The system rates properties between 0-1150 points. Lower scores are more sensitive. Higher scores are more suitable for development.

Land Coverage = Any impervious surface that does not allow water infiltration and plant growth (i.e. house, parking lot). For coverage exceptions, please refer to Chapter 30 of the TRPA Code of Ordinances. Coverage must be transferred within the same hydrologic area and from a more sensitive parcel to a less sensitive parcel. Applies to any IPES parcel or Bailey 4-7.

Potential Coverage = Does not physically exist until transferred. Used for residential projects.
Hard Coverage = Existing or potentially existing man-made commercial structures.
Soft Coverage = Compacted soil without structures.

Marketable Rights = Often simply called rights, they can add value to a property. Depending upon they type of right, it can also potentially add to a property's development potential. Examples include Land Coverage, Residential Development Right, Existing Residential Unit of Use, Restoration Credit, Tourist Accommodation Unit, etc.

Maximum allowable coverage = Base allowable land coverage + transferred coverage = the total coverage allowed based upon TRPA's Maximum Parcel Coverage Table.

Non-Sensitive parcel = Parcels with IPES scores >/= 726 or Bailey Scores 4-7.

Receiving parcel = Is the recipient of marketable rights from another parcel, such as coverage, Residential Development Right, etc.

Residential Development Right (RDR) = AKA Development Right, is a right used in conjunction with an allocation to potentially develop a residential parcel.

Residential Unit of Use (ERUU) = AKA Existing Residential Unit of Use, is a residential room(s) designed for household living.
RDR + Allocation = ERUU

Restoration Credit = Parcels containing Bailey Scores of Class 1-3 can receive SEZ or Class 1-3 Restoration Credit from any parcel in the basin. It is not hydrologic-area specific. There are very stringent TRPA regulations regarding placing new impervious surface in a sensitive area. This right must be purchased at 1.5 times the need. It is similar to coverage, but is a different type of right than coverage.

Rule of Relative Sensitivity = Applies to residential parcels. Coverage must be transferred from a more sensitive parcel to a less sensitive parcel. (Example: Parcel IPES score of </= 700 transferred to a Parcel IPES score of >/= 700.)

Sending parcel = Transfers marketable rights to another parcel, such as coverage, Residential Development Right, etc.

Sensitive Land = Parcels with IPES scores 0-725 or Bailey Scores 1-3.

Stream Environment Zone (SEZ) = An area that contains water at or near the ground surface and/or vegetation that lives in or near water.

Tourist Accommodation Unit (TAU) = A living unit designed to be rented on a temporary basis, such as a motel unit.

Vacant parcel = Is undeveloped, but may contain certain marketable rights such as coverage, Residential Development Right, etc.

ATTACHMENT 3

LAND BANK OVERVIEW

Since 1987, the Conservancy has operated the Land Bank on the California side of the Basin under its Land Bank Program (Program), governed by a Memorandum of Understanding (MOU) with Tahoe Regional Planning Agency (TRPA). The Program is designed to:

1) Offset the effects of existing ground coverage which exceed current standards, and redirect the pool of unused coverage rights toward less-sensitive parcels;
2) Assist property owners in securing additional coverage for their properties, consistent with TRPA requirements; and
3) Complement and support the Conservancy's efforts to protect and restore lands for resource purposes and objectives.

The MOU mandates that the Conservancy will acquire and restore or acquire and retire coverage with the excess coverage fees collected by TRPA.

The Conservancy has also acquired restoration credits by restoring coverage or disturbed landscapes on environmentally sensitive lands. In the Basin, new coverage is prohibited on highly sensitive lands unless TRPA determines that the coverage is necessary for public safety reasons or for public facilities, including utility lines and bike trails. If TRPA determines coverage is permissible in these highly sensitive areas, the coverage must be mitigated with restoration credits originating from equally sensitive areas that have been successfully restored.

Through the acquisition of properties the Conservancy can generate a wide range of marketable rights (see Attachment 2, Land Bank Definitions), depending on what existed or was credited to the property at the time of acquisition. The Conservancy periodically acquires rights such as coverage, tourist accommodation units, residential units, and commercial floor area. Such rights are usually sold to parties building or remodeling a commercial site or a multi-family unit(s). The rights are recognized by the various regulatory agencies within the Basin and can therefore be sold or transferred under the proper circumstances. The use of these rights is reserved for projects in the areas where the rights originated in order to maintain the economic base of those communities. Generally, the Conservancy has acquired the marketable rights incidental to other land acquisition purposes.

ATTACHMENT 4

KEY ISSUES SURROUNDING TRANSFERS OF DEVELOPMENT IN THE TAHOE BASIN

At its December 12, 2013 Board Meeting, Tahoe Conservancy staff proposed the development of a Tahoe Livable Communities (TLC) Program that would build upon and refocus the Conservancy's land acquisition and marketable rights programs to 1) acquire and restore aging developed properties on or adjacent to sensitive lands, and retire or transfer the development rights to community centers; 2) sell, lease, or exchange vacant Conservancy land in community centers; and 3) acquire the remaining private properties in several of Lake Tahoe's roadless subdivisions to remove the threat of development.

The TLC Program is intended, in part, to complement and enhance the effectiveness of the 2012 Regional Plan Update (RPU) in addition to addressing other state and federal mandates. A major focus of the RPU, as summarized below, is to provide incentives for transfers of development on sensitive land in outlying areas to community centers. However, stakeholders and local jurisdictions have raised a wide variety of issues that may make it more difficult for TRPA to achieve its goals and for the Conservancy to maximize the potential of the TLC Program. This memo is intended to briefly summarize the key provisions of the RPU related to transfers of development, and the major issues raised in recent discussions with local jurisdictions and stakeholders on the TRPA and Conservancy programs.

Major 2012 Regional Plan Update Transfer of Development Provisions

The most significant changes adopted in the 2012 Regional Plan Update to increase incentives for the transfer of developed property on sensitive lands to community centers include the following:

- **Limited allocations:** The RPU establishes new limits on commercial, tourist, and residential development, which can bought and sold in the form of commercial floor area (CFA); tourist accommodation units (TAUs), and residential allocations. The RPU maintained the previous system of annually releasing residential allocations through a performance-based system. TRPA recently adopted changes to this system to more closely tie the release of allocations to accomplishment of TMDL targets.
- **New special planning designations:** The RPU establishes three special designations for areas targeted for redevelopment – Town Center, Regional Center, and High Density Tourist District – which are collectively referred to as community centers. These areas are generally better served by pedestrian, bike, and transit facilities that could help create more livable and sustainable communities.
- **Transfer ratios:** Development transfers under the 1987 Plan generally occurred at a 1:1 ratio, meaning that one unit may be constructed for every unit removed, although some bonus units were awarded for transfers from development on sensitive land. The RPU established new transfer of development ratios of up to 3:1 for commercial properties, and up to 6:1 for residential properties, based on the sensitivity and location of the property rights to be transferred. The Plan also reduces the coverage required to be transferred for development projects from up to 2:1 to 1:1 when the coverage is transferred from sensitive lands to community centers. The Conservancy may be able to take advantage of these ratios by acquiring and transferring the development rights of commercial and/or residential properties to both help recover its costs and promote more concentrated development.

- **Bonus units:** The Plan provides bonus TAUs, CFA, and residential units in exchange for the removal of additional excess coverage in community centers, and makes available 600 new residential bonus units as an incentive for affordable housing and development transfers to these centers.

Key Issues

Despite these significant changes, however, stakeholders and local governments have raised a wide variety of issues related to the RPU development transfer program, barriers to its implementation and effectiveness, and the role of the Conservancy's TLC Program and land bank in facilitating transfers of development. These issues should be further evaluated and new proposals to address the barriers should be developed as part of TRPA's ongoing review of major issues related to the RPU.

Transfer Policies

- **Transfers outside of jurisdictions**: Some stakeholders believe that TRPA and/or local jurisdictions should establish limits on the potential for south-north transfers of TAUs and CFA to limit the potential for additional development in the west and north shore. Some also advocate that transfers be limited to community centers to help fulfill the goals of the Regional Plan; others prefer no restrictions to maintain maximum flexibility to accommodate potential development projects in all areas where they are allowed.
- **Basis for ratios**: Some question the basis of the new transfer ratios, and stress the need for a more complete market analysis of transfer ratios and other policies needed to achieve more compact development. Some have expressed concern that the new ratios will encourage too much development because developers can be awarded up to six times the commodities they acquire; others are concerned that the new ratios could hinder rather than accelerate transfers by significantly increasing the asking price of commercial property on sensitive lands.
- **Retirement vs. transfers**: Some argue that all TAU's publicly acquired in the south shore should be retired to both reduce the development footprint in the basin, and to increase occupancy and room rates in the remaining hotels. Others argue that they should be transferred, but only to community centers, and still others that that they be converted to CFA or development allocations (ERUUs) to facilitate increased commercial and residential development.
- **Price of commodities**: Some argue that public agencies who own these commodities should make them available at low cost to encourage commercial development in community centers. They point out that the developer of a new 100-unit hotel might need to pay $2-3 million just to acquire the TAUs, a significant impediment to new development. Others respond that the market should set prices for TAUs and CFA to facilitate transfers, and that costs will be minimized if the units are acquired from sensitive areas, where they can be converted into three units for every unit purchased.
- **Need for public funding**: Some point to a more fundamental contradiction in the RPU: the RPU seeks to achieve environmental, economic, and social benefits largely through incentives for redevelopment, but asks redevelopment projects to shoulder the costs of these public benefits through steep fees for coverage, TAUs, and CFA. Although these costs are lower than under the previous plan, they are still a major impediment to redevelopment and the goals of the plan, and thus some argue that local jurisdictions and/or the Conservancy should seek to further

offset these costs to obtain the public benefits of restoring sensitive land and facilitating redevelopment projects.

Program Limitations

- **Boundaries of community centers**: Some argue that the boundaries of the south shore community centers are too broad to meaningfully concentrate development; others believe that more commercial development is needed throughout the city.
- **Lack of SEZ restoration opportunities**: Some question the RPU emphasis on the potential for transfers of development on sensitive land outside of community centers since there are numerous aging commercial properties on sensitive land within community centers, and very few commercial properties on SEZs outside of community centers in the basin. In the City of South Lake Tahoe, for example, there are only 12 commercial properties on sensitive land outside of the community center boundaries.
- **Availability of CFA**: Some argue that the RPU makes available too much CFA (583,000 sq ft), more than the total amount used in the last few decades (416,000 sq ft), even while population levels and retail sales have dropped significantly. They argue that this could undermine TRPA 's goal to encourage compact development through transfers of existing CFA. Others would prefer to reduce, rather than increase or transfer, the commercial development footprint in the basin in order to help existing businesses who now serve fewer full-time residents, and to eliminate the commercial strips that hurt efforts to promote eco-tourism and walkable/bikable town centers. Still others respond that the city needs much more CFA to attract larger businesses and to reduce leakage of retail sales to larger metropolitan areas.

Priorities for Transfers/Emphasis on SEZs

- **Priorities for acquisitions/transfers**: Some question the TRPA and Conservancy emphasis on transfers of commercial property on sensitive land and argue that the primary goal should be to achieve more compact development. They point out, for example, that there are no incentives for transfers of the strip development in the Sierra Tract area along Highway 50 to community centers. Others support an exclusive focus on transfers or retirement of commercial property on SEZ to assure that environmental benefits are achieved regardless of whether the commodities are retired or transferred. Still others believe that the primary focus of public acquisitions and transfers should be to facilitate implementation of area plan environmental and economic goals, rather than SEZ restoration. And some believe that commodities should simply flow to the type of development that is highest in demand, which may change over time.
- **Benefits of SEZ restoration**: Some are concerned that a great deal of commercial property in the south shore sits on SEZs that can no longer be restored to functional wetlands because they are disconnected from the floodplain, and therefore purchasers of these properties should not receive three units for every unit acquired. Others respond that removing coverage and commercial development from any developed parcel on sensitive land has significant benefits in addressing TRPA's soil conservation and water quality thresholds.

Goals, Benefits, and Performance Measures

- **Benefits of transfers**: Some are not convinced that more compact development is achievable in Tahoe; others support policies to achieve this goal, but question the environmental benefits, and whether relying on new development rather than strict enforcement of water quality bmps will accelerate attainment of water quality thresholds. Still others question the relevance of the program to the west and north shores, which already have relatively compact town centers.
- **Goals/Performance measures**: Some argue that the RPU significantly overstates the potential for transfers of development on sensitive land to community centers, given the expansive boundaries of town centers, the potential ease of obtaining CFA without acquiring and transferring property, and the lack of commercial properties on sensitive land outside of community centers. Others argue that the RPU performance measures for transfers of development, such as the removal of just 10 TAUs and 5,000 square feet of CFA in 4 years, significantly understate the level of transfers needed to generate significant benefits, and should not be used to measure success . Still others respond that it will take several years, a stronger economy, and a significant increase in demand for the incentives to produce results.

Summary

To a large extent, these issues reflect a difference in goals and priorities among the agencies and stakeholders. The primary goals of the RPU transfer of marketable rights program are to both remove development on sensitive land in outlying areas and transfer development to community centers. These twin goals will be difficult to achieve, however, because there are too few commercial properties on sensitive land in outlying areas that could be transferred, and because local jurisdictions and stakeholders may have other priorities. The City of South Lake Tahoe, for example, is seeking to retain most of its commercial areas to attract new development, and may make available a significant amount of new CFA to developers, which could sharply decrease the potential for transfers. The City also may oppose any significant retirements or transfers of TAUs to other jurisdictions that could be converted to other commodities in higher demand within the city. A recent report by the STAR group, meanwhile, focused on the economic benefits of retiring rather than transferring TAUs, regardless of whether they are in community centers or on sensitive land, to boost the occupancy, room rates, and tax revenue from the city’s lodging industry. The environmental community supports acquisitions of developed property on sensitive land, but would prefer that the development rights be retired rather than be transferred to facilitate additional development. Some would support transfers, but only to community centers. And finally, the north shore business community seeks certainty that new businesses and hotels can obtain the commodities they need at reasonable rates. These competing interests will have to be reconciled to build broad-based support for implementation of the TRPA and Conservancy programs.