DECISION NOTICE
and
FINDING OF NO SIGNIFICANT IMPACT

INCLINE LAKE DAM PROJECT

U.S. FOREST SERVICE
LAKE TAHOE BASIN MANAGEMENT UNIT (LTBMU)

WASHOE COUNTY, NEVADA

BACKGROUND

This project is located off of State Route 431 in Washoe County, Nevada near Tahoe Meadows (See Figure 1-1). The reservoir and dams (See Figure 1-2 for location of the major dam and minor dam) are situated on Assessor Parcel Number 048-041-15, at an elevation of approximately 8,300 feet. The total project area is approximately 46 acres and includes the roadway into the dam and the human influenced disturbance footprint of the dam (about 18-20 acres).

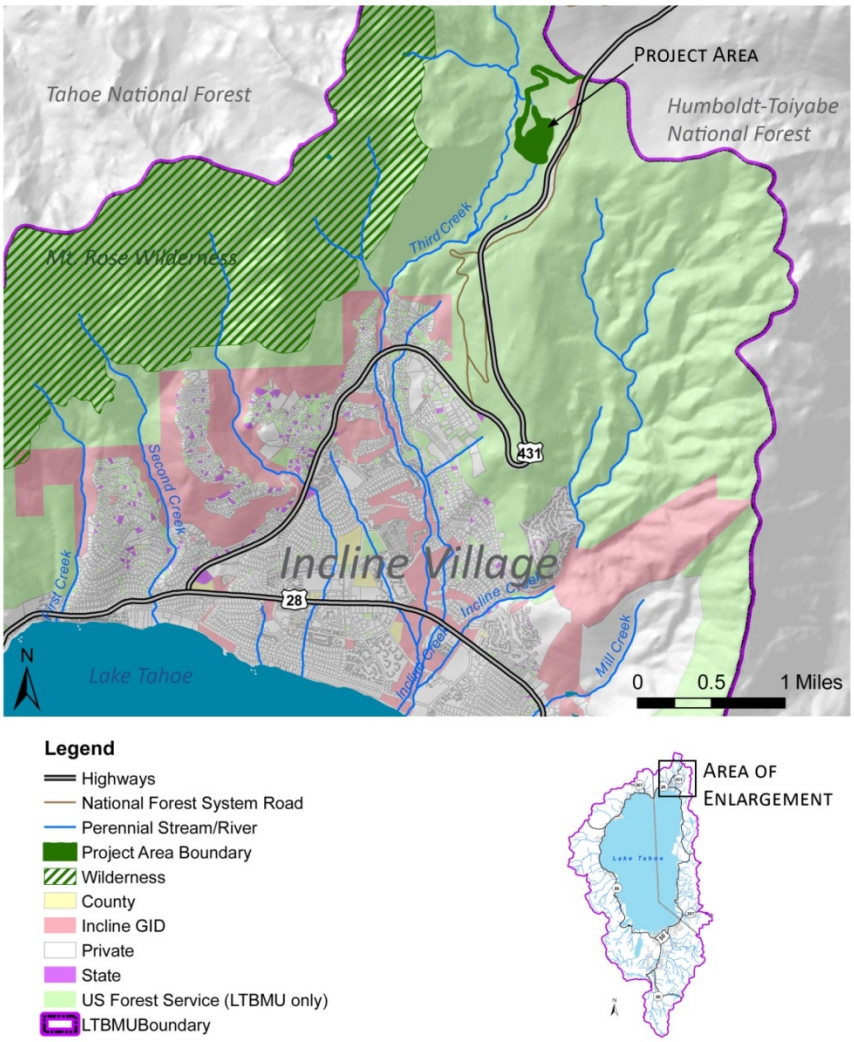
Incline Lake Dam was purchased by the Forest Service as part of a larger land acquisition (777 acres) to be managed consistent with Forest Service stewardship goals and policies. Acquisition proceedings started in 2008 and were finalized in December 2011. All buildings were removed from the property prior to the acquisition. As a part of the larger acquisition, a site investigation and assessment of the major dam and spillway were commissioned. The results of a site assessment done prior to the acquisition (Black Eagle Consulting, 2008) indicated that the existing dam and spillway (see Existing Condition (Figure 1-2) map) do not meet Federal, State or local standards for a high hazard dam and could liquefy during a seismic event, with the Incline Village fault about 1,000 feet from the former lake. Subsequently, the lake (which was approximately 18-20 acres) was drained and the outflow pipe was disabled so that it would not refill prior to completion of the USFS acquisition. Water currently flows freely through the underflow pipe. Before long-term planning can begin for the remainder of the property, the dams need to be addressed.

Records show the construction of the dams was completed in 1942 (RCI, 2006). The man-made lake was likely used for recreational purposes (swimming, boating, fishing, etc.) by the private owners. Water was diverted out of Third Creek to supply the man-made lake, but this diversion was shut down prior to the Forest Service acquiring ownership.

The addition of Third Creek water and ditching led to stream erosion. The creek has cut down through surface soils and continues to do so currently. This erosion front is located just beyond the rim of the old lake bed, where water plunges 6 feet over the head cut from the meadow surface to a raw stream bottom. Without intervention, erosion will continue to advance up valley and has already captured one of the headwater spring feeder streams, the bottom of which is eroding down currently.

Figure 1-1

Project Area Context

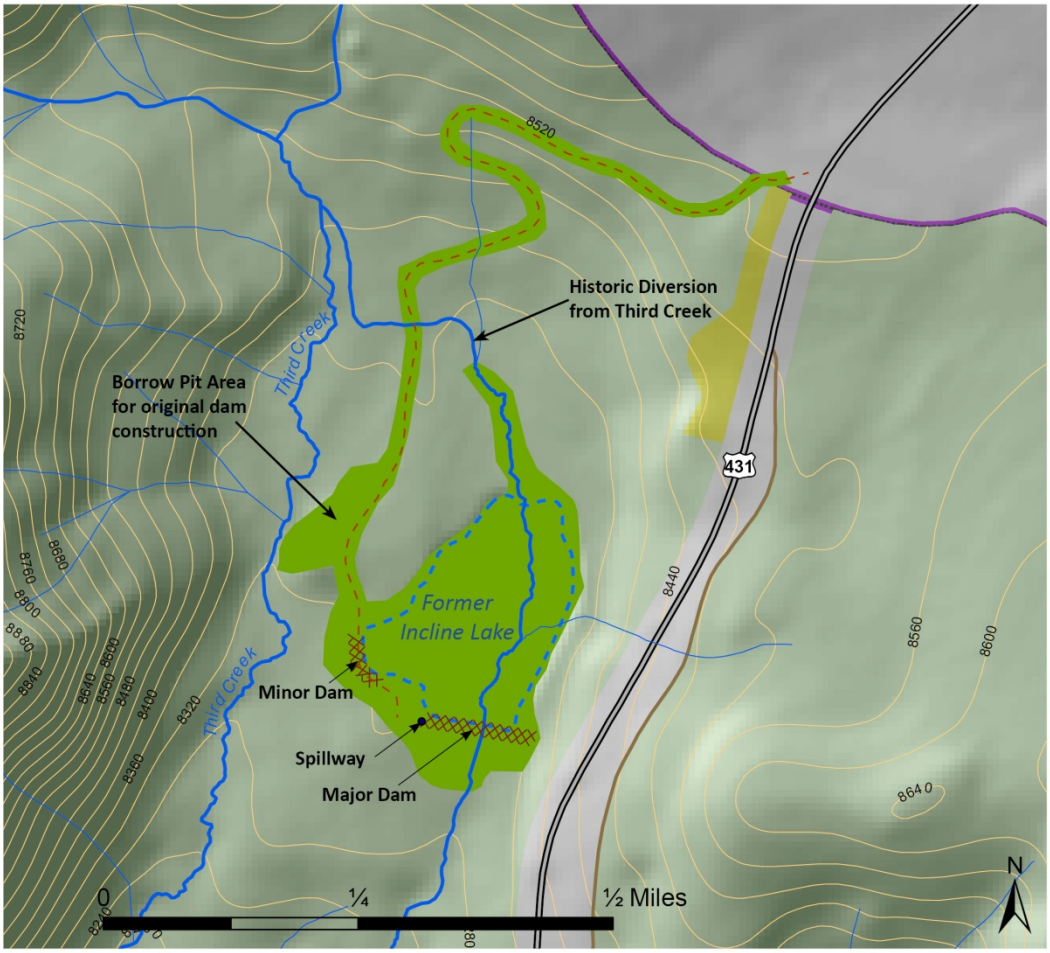


Incline Lake Dam Project Proposed Action

Lake Tahoe Basin Management Unit

Figure 1-2

Project Area



Legend

- LTBMUBoundary
- Highways
- National Forest System Road
- Contours 40 foot
- Ephemeral Stream
- Perennial River/Stream
- Incline GID ownership
- US Forest Service (LTBMU only)
- Project Area
- Former Incline Lake Footprint
- Access Road
- Dam Spillway
- Dam

Incline Lake Dam Project Proposed Action

Lake Tahoe Basin Management Unit

DECISION

I have reviewed the Incline Lake Dam Project Environmental Assessment (EA), the Project Record, and the Response to Comments (DN/FONSI, Appendix C).

I have decided to implement Alternative 2 as described below and in the EA (Section 2.1.2). In summary, the selected alternative will reduce the hazards associated with the high hazard dam and restore the area to an environment more reflective of the native pre-dam condition.

ALTERNATIVE 2

See **Figure 2-3** for graphic representation of the selected alternative.

The specific activities include:

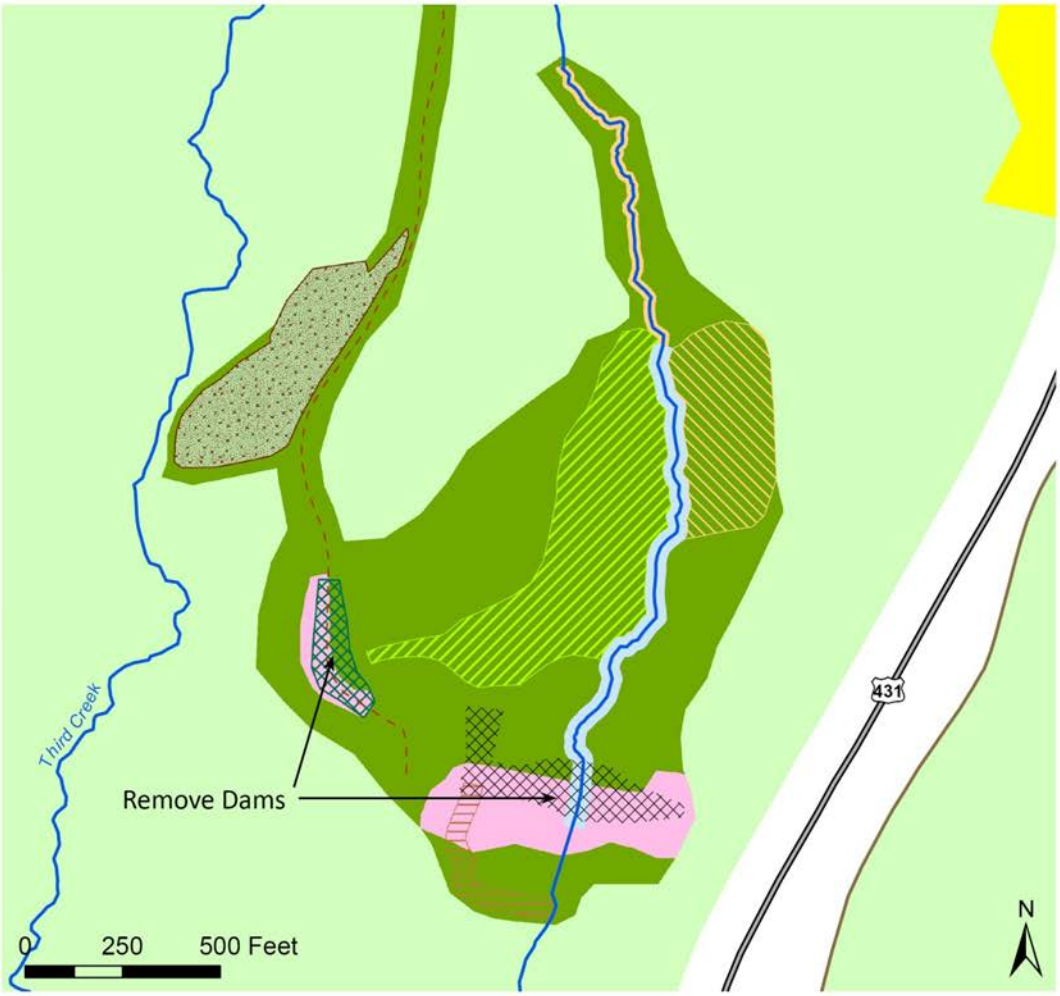
- Removal of the major dam structure and spillway (about 1.6 acres) and re-contouring to match adjacent contours and grades. All concrete and metal materials associated with spillway structure would be hauled away to an appropriate solid waste disposal facility. This action would also include removal of trees from these structures (approximately 3.4 acres).
- Decommissioning the existing spillway ditch (about 500 feet/0.6 acres). Decommissioning would consist of filling the spillway ditch and re-contouring it to match adjacent grades. The banks of the existing spillway ditch channel would be laid back and stabilized to minimize future erosion. Large wood and mulch would be placed in the old channel to capture material in the bed as the site stabilizes.
- Use of the existing access road into the dam (approximately 1.2 miles). The access road may need to be widened in order to provide an appropriate turning radius for equipment. Widening may involve a minor amount of tree removal (not included in the 3.4 acres estimated above) and replacement of existing roadway drainage features. This road would be returned to its original use level and stabilized with appropriate BMPs after work is completed on the dam.
- The current minor dam would be converted into a low water crossing (about 0.7 acres) in order to facilitate administrative access. Work on the minor dam would also include re-contouring to match adjacent contours and grades. Tree removal could also occur and is included in the 3.4 acres estimated above.
- Utilizing earthen material from dam decommissioning to fill an approximately 3 acre area (which was excavated when the land was privately owned), to match adjacent topography. Excess spoil material from the dam decommissioning will be hauled off site. (see Figure 2-3 for approximate area that would be reshaped through regrading).

Conduct minor regrading of berms and areas “scraped” in an approximately 5.7 acre area within the lake bed footprint.

- Slope stabilization measures (examples: coir logs, large wood, hydromulch, wood chips, tilling organic material into soil) would be installed on regraded areas that have potential for soil erosion and transport until vegetation is established (could include planting and/or seeding).
- Installing log/boulder grade control structures as needed to re-establish connectivity of drainage upstream of the dam into drainage downstream of the dam. Construct approximately 200 feet of channel characterized by large cobble/boulder substrate, large wood, and step/pool channel morphology (Rosgen B channel type; Rosgen, 1996).
- Reconstruction of existing incised and unstable man-made ditch through the reservoir footprint (about 1,300 feet/1.6 acres; this includes the approximately 200 feet of channel construction through the dam footprint) through channel filling and constructed weirs, to create a loosely defined, shallow (6 to 8 inches deep), 3 to 6 foot wide channel, with a sand/small gravel substrate. Stabilization of approximately 15 to 20 headcuts in an additional 2,250 feet of unstable ditches (about 900 feet/0.6 acres) and channels (about 1,350 feet/2.7 acres). Channel restoration results in stable loosely defined channels, dispersed and widely spread throughout the floodplain (Rosgen Da channel type; Rosgen, 1996).
- Installation of willow stakes, seeding, and wetland species sod plugs and plantings sufficient to stabilize and prevent erosion of the area influenced by the dam removal and channel reconstruction and head-cut stabilization, and promote reestablishment of wet meadow and riparian vegetation throughout the lake bed footprint.

Figure 2-3

Alternative 2 - Full Restoration Alternative



Legend

- Access Road
- Highways
- National Forest System Road
- Incline GID ownership
- US Forest Service (LTBMU only)
- Project Area
- Perennial River/Stream
- Stabilize Headcuts in Channels
- Minor Reshape of Soil Surface
- Remove Dam and Spillway
- Reconstruct Shallow Channel
- Infill Area (Shape & Stabilize)
- Replace Dam with Low Water Crossing
- Stabilize Headcuts in Ditch
- Decommission Spillway Ditch
- Tree Removal

Incline Lake Dam Project Proposed Action

Lake Tahoe Basin Management Unit

DECISION RATIONALE

I have decided to implement Alternative 2 for the following reasons:

1. **It is fully responsive to the Purpose and Need (EA, Section 1.5).**

   Alternative 2 eliminates any public safety issues downstream by removing the dams. In addition Alternative 2 proposes restoration activities that would protect water quality and riparian/aquatic habitat. Alternative 1 does not fully meet the purpose and need because while it abates the public safety issues by breaching the dam it does not include the restoration activities that will reduce potential risk to water quality and aquatic habitat.

2. **The selected alternative meets the desired conditions (EA, Section 1.4).**

   Alternative 2 reduces the hazard associated with the existing dam, which does not meet Federal, State, or local standards. Additionally, the alternative improves hydrology and conditions which support groundwater dependent and riparian ecosystems. While Alternative 1 also partially addresses the desired conditions it would still have some risk of failure and does not improve the hydrologic conditions to the degree that Alternative 2 does. Alternative 3 also addresses the desired conditions, but it would still have some risk of failure.

3. **The selected alternative provides a comprehensive, rigorous, and thorough set of project design features and Best Management Practices (see Appendix A) that are specifically designed to minimize adverse environmental effects.** These measures have been demonstrated to be effective in mitigating effects. The selected alternative and the design features and BMPs reflect a cooperative effort by the Forest Service, other public agencies, and interested publics as to the appropriate actions to be taken in order to meet the need for action.

4. **The selected alternative emphasizes ecological restoration.**

   I recognize that some commenters valued the reservoir based recreational opportunities of Alternative 3 over the restored natural environment values of Alternative 2. Alternative 2 will offer a different recreational experience than Alternative 3, but still will offer opportunities to enjoy nature in a less human-modified environment. Clearly there is a tradeoff and both have outcomes that are mutually exclusive. In my decision I have chosen the restoration opportunities afforded in Alternative 2 over the creation of a manmade reservoir. Alternative 1 would also not provide for the restoration opportunities afforded in Alternative 2.

5. **The selected alternative emphasizes sustainability goals.**

   This decision is consistent with recommendations from the Forest Service National Facility Assessment Team to "substantially reduce the inventory of dams, reduce water levels and restore the resulting streambeds to natural conditions where feasible" (USDA

2014). Alternative 1 would not meet these sustainability goals because there would be no restoration completed, only stabilization around the breached area.

The major issues regarding the project have been grouped and the decision rationale regarding each issue follows.

ISSUE: SAFETY

The main reason that I am selecting Alternative 2 is because it best meets the purpose and need of removing the hazard associated with the dam. With the dam removed and the area restored it will provide a level of assurance to downstream residents. Though proper permitting and compliance would insure a structure in conformance with current dam safety standards and regulations, it would not completely reduce the hazard associated with the dam. Dams and other facilities are designed to reduce the probability of failure during a specific event – not eliminate it. There is no assurance that an extreme weather or geologic event may not cause a dam failure. Alternative 2 abates the risk more effectively than the other alternatives by removing the dams and restoring the area to a near natural condition.

Alternatives 1 and 3 do not equally address safety issues when compared to Alternative 2. As described in Chapter 2 of the EA (Chapter 2, Section 2.1.1), Alternative 1 simply breaches the main dam leaving the auxiliary dam in place. Ideally, the breach would be constructed to pass the probable maximum flood (PMF). Since the contributing watershed is relatively small (EA, Chapter 3, Section 3.4.2), resulting in a small PMF, the controlling factor for the breach size would be susceptibility to plugging which would be an estimate. Since no water is impounded, a hazard rating could not be assigned to the breached configuration. The risk, although reduced, could not be completely eliminated. Alternative 3 reduces the risk but does not reduce the hazard level currently assigned to the dam, which is rated a high hazard dam (EA, Chapter 3.8). Alternative 2 involves the complete removal of all structures and their appurtenances, completely removing any safety issues associated with those facilities.

There are a number of ways to approach planning for this area. I chose to address public safety and mitigation of the high hazard dam as a first priority, recognizing that long-term management decisions for the entire Incline Lakes property would occur at a later date. In addition to mitigating the hazards associated with the dam, this decision also addresses water quality impacts and invasive weed impacts that are currently affecting the project area. Resolution of these immediate concerns will stabilize the area and bring it closer to a desired condition. There are no immediate needs for a dam in this area, such as flood control, irrigation supply, or hydroelectric generation which could have influenced this planning strategy.

This project does not propose recreation development within the project area, however the environmental analysis considered the effects of this project on recreation opportunities and found there would be no significant impact. Each alternative considered offers a different opportunity for recreation and recognizes that the reservoir was drained prior to USFS acquisition and was previously privately owned, offering no public recreation opportunity.

Future land use planning for the property will have a broader scope than the purpose and need for this project and could include objectives for habitat, infrastructure, access, and recreation development. This future planning could affect resources in a larger area than the Incline Lakes property. There is independent utility in making this decision to mitigate the hazard first and approach long-term use planning at a later date. These distinct efforts are not connected actions and are not dependent upon one another.

ISSUE: PROVIDE RECREATION OPPORTUNITIES, INCLUDING LAKE FISHING

While some people supported the proposed restoration of Incline Lake reservoir to a wetland complex, others expressed concern about its impact on local recreation. Even though the purpose and need of this project is to address the safety hazard associated with the dam, I considered the effects of Alternative 2 on recreation. I heard concern about not providing fishing opportunities and other lake recreation, such as boating and swimming. The concerns I heard and read regarding Incline Lake reservoir were that the opportunity for a lake experience, including fishing, would be lost as a highly desirable recreational destination spot for local residents and visitors. It should be noted that the previous reservoir was on private land and was never open to the public.

I understand the concern and the social impacts associated with the conversion of Incline Lake reservoir from its former condition as a small reservoir to a wetland habitat. My decision is to proceed with Alternative 2 and remove the dam structures and restore the area. My decision reflects that the improvements to the ecological watershed function of the Incline Lake area is a higher priority than the reservoir. Alternative 2 would remove the human-made dam and restore the historic drainage pathway from the upslope spring(s) currently feeding the reservoir to support a larger area of riparian and wetland habitat, improving riparian and wetland habitat function. The recreational experience will undergo change as the area transitions from a reservoir to a more robust and widespread riparian and wetland vegetation community. However, this will provide the opportunity to view an enhanced riparian community of alder, willow, and aspen and wetland communities of sedge grasses and wildflowers, and the wildlife that inhabits it. The area will continue to provide a recreation experience though it will not be identical to the experience that would be provided if the reservoir was reconstructed. Stream fishing opportunities would still be available. Since the reservoir was never open to the public there is not a loss of a previously accessible opportunity. In making my decision, I also considered that there are four other lakes within 15 miles of this area that currently do provide fishing opportunities (Spooner Lake, Hobart Reservoir, and Marlette Lake in NV; and Martis Creek Lake in CA).

ALTERNATIVES CONSIDERED

In addition to the selected alternative (Alternative 2), I also considered the following alternatives in detail (EA Section 2.1):

No Action:

Under this alternative, minimal activities would occur to mitigate the current hazard of the dams.

Alternative 3: <u>Reconstruct dams and create a reservoir</u>

This alternative is designed to respond to public concerns identified during project scoping with the desire to reconstruct the reservoir.

ALTERNATIVES CONSIDERED BUT NOT IN DETAIL

In addition to those alternatives considered in detail, commenters had several suggestions for alternatives to the Proposed Action. Several of these suggestions were considered but not developed for detailed analysis. Section 2.4 of the EA describes these alternatives.

PUBLIC INVOLVEMENT

During preliminary review of the project with Forest Service resource specialists and with other interested agencies and stakeholders, several concerns were identified and were addressed in the final Proposed Action that was part of the formal scoping process. These preliminary concerns included:

- **The presence of noxious weeds within the project area.** Design features will be implemented to prevent the spread of these plants during project construction.
- **The dam should be evaluated for eligibility to the federal register for historic places.** The Forest Service anticipates concurrence by the Nevada State Historic Preservation Officer that the Incline Lake Dam is not eligible to the National Register of Historic Places. Prior to implementing the project, SHPO concurrence with Forest Service findings will be required. (EA Section 3.3)

The project was listed on the LTBMU's quarterly "Schedule of Proposed Actions" (SOPA) on January 1, 2012. A scoping letter was mailed to a total of 32 stakeholders, government agencies (including Washoe County and the State of Nevada), and interested parties on June 15, 2013. A press release was submitted to local news outlets (such as the Tahoe Daily Tribune, Reno Gazette Journal, Tahoe Mountain News, and Sacramento Bee) regarding the scoping of this project and identifying how the public could learn more about and comment on the proposal. Newspaper articles about the proposal were published by various media outlets, including the Reno Gazette Journal, Sacramento Bee, San Jose Mercury News, Lake Tahoe News, Tahoe Daily Tribune, and YubaNet. The Reno Gazette Journal published both online and printed articles about the Incline Lake Dam Project. Printed articles about the project appeared in the Reno Gazette Journal on June 18, 2013, June 14, 2014, and

September 4, 2014. In addition, two public meetings were held in Nevada during the scoping period. One was held in Incline Village (July 8, 2013) and one in Reno (July 10, 2013). Information about these open houses was provided in the scoping letter as well as news reports. A total of 20 written or electronic comment letters were submitted (Project Record Folder C7) during the project scoping period.

A new alternative was added in response to public comment (Alternative 3). The EA was released for the 30-day public comment period on May 7, 2014 with a legal notice in the Tahoe Daily Tribune. Additionally, a press release announcing the public comment period was sent to local news outlets (including the same newspapers listed above) on May 5, 2014.

Individual letters were sent to all of the individuals on the original scoping list, as well as any individuals who provided comments during scoping to notify them of the EA comment period. A total of 38 comment letters were received during the public comment period that ended June 6, 2014. These comments helped to inform the refinement of the EA analysis. The comments and responses to them are included in Appendix C of this document.

FINDING OF NO SIGNIFICANT IMPACT

After considering the environmental effects described in the EA, I have determined that these actions will not have a significant effect on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my finding on the following:

1. **Beneficial and adverse impacts –** My finding of no significant environmental effects is not biased by the beneficial effects of the action (EA, Chapter 3). Design features and BMPs implemented will mitigate effects to less than significant levels (Appendix A of this document).
2. **The degree to which the proposed action affects public health or safety –** There will be no significant effects on public health and safety, and design features address public health and safety. The project involves routine work that has occurred and continues to occur within and near the project area. Signs will be used warning public users of project activities such as vehicles using the road and equipment usage. A short-term Forest Order closing a portion of the project area during implementation could occur depending upon visitor use and the timing of implementation activities. Overall Alternative 2 provides for the greatest margin of long term downstream public safety by not constructing a water impoundment.
3. **Unique characteristics of the geographic area –** The project area includes forested areas, lacustrine, wet meadow and fen habitats. Fen habitat is considered to be one of the most sensitive plant communities identified during ecological assessments of the Sierra Nevada (USDA Forest Service 2004b). Full implementation of the project design

features is considered adequate to protect fens from significant effects in Alternative 2 (EA, Chapter 3).

4. **The degree of controversy over environmental effects –** Public involvement with interested and affected individuals and agencies throughout the environmental analysis identified concerns regarding the environmental effects of implementing the proposed actions. While there are different opinions that express different outcomes, the EA adequately addresses these concerns and accurately discloses the environmental effects.

5. **The degree to which the possible effects on the human environment are highly uncertain or involves unique or unknown risks –** The LTBMU has considerable experience and success with the types of activities to be implemented. The effects analysis in the EA shows that overall effects are not uncertain, and do not involve unique or unknown risk (EA, Chapter 3). It is not possible to exactly predict the composition and distribution of plant, aquatic and animal species that would reestablish in the restored area, but the processes of hydrologic stabilization and revegetation are well known and have been successfully implemented by the Forest Service in a variety of situations and scales similar to the Incline Lake area.

6. **The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.** The action will not establish a precedent for future actions with significant effects. No significant effects are identified (EA, Chapter 3), nor does this action influence a decision in principle about any future considerations. This decision does not forgo any future decision for management of this area. If at some time in the future the need for a reservoir arises, it could be built.

7. **Whether the action is related to other actions with individually insignificant but cumulatively significant impacts –** There are no known significant cumulative effects between this project and other ongoing or planned projects in or adjacent to this project. The effects of other foreseeable future actions as well as past actions and ongoing actions were included in the analysis (EA, Chapter 3).

8. **The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historical resources** – The project area has been thoroughly surveyed for cultural resources. The Forest Service anticipates concurrence by the Nevada State Historic Preservation Officer that the Incline Lake Dam is not eligible to the National Register of Historic Places. Prior to implementing the project, SHPO concurrence with Forest Service findings will be required. (EA Section 3.3)

9. **The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973** – The information provided for this project specific analysis on SNYLF is discussed in detail in the project's aquatic species BA/BE and the associated project effects description in this NEPA document are an accurate portrayal for this species at this time with the information obtained to date. Since this project was identified as having up to 35 acres of suitable SNYLF habitat (as defined by FWS and the Region as all areas within 25 meters of perennial or intermittent streams, lakes, meadows, and ponds), this project was included in the regional programmatic batching submittal for Section 7 ESA consultation on SNYLF. The programmatic effort includes projects containing suitable habitat across all forests in Region 5. The final determination of effects for SNYLF will be based on the programmatic consultation efforts . Once the consultation process with FWS is complete, the information will be incorporated into this project NEPA, BA/BE, and decision documents, including any specific terms and conditions as directed by the USFWS. This project will not affect any other endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973 because there were no other individuals or critical habitat identified in the project area.

10. **Whether the action threatens a violation of Federal, State, or local law or other requirements imposed for the protection of the environment** – The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Applicable laws and regulations were considered in the EA (EA, Section 1.11). The action was designed to be consistent with the LTBMU LRMP (EA Section 1.11; Project Record Document B-1).

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

National Forest Management Act

The National Forest Management Act (NFMA) requires the development of long-range land and resource management plans. The LTBMU Forest Plan was approved in 1988 as required by this act. It has been amended several times, including in the Sierra Nevada Forest Plan Amendment (SNFPA) (USDA Forest Service 2004). The Forest Plan provides guidance for all natural resource management activities. The NFMA requires that all projects and activities be consistent with the Forest Plan. The Forest Plan has been reviewed in consideration of this project, and the design of the project is consistent with the Forest Plan. A Forest Plan consistency matrix and review for this project was completed (Project Record Document B-1).

Endangered Species Act

In accordance with Section 7(c) of the Endangered Species Act, the U.S. Fish and Wildlife Service (USFWS) list of endangered and threatened species that may be affected by projects in the Lake Tahoe Basin Management Area was reviewed (verified January 7, 2014) and effects on those species are analyzed in the Aquatic and Wildlife BA/BE's (Project Record Folders G-1 and G-2).

National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to take into account the effect of a project on any district, site, building, structure, or object that is included in, or eligible for inclusion in, the National Register of Historic Places. Section 106 of the NHPA (Public Law 89.665, as amended) also requires federal agencies to afford the State Historic Preservation Officer a reasonable opportunity to comment. An evaluation of the dam has been prepared and the determination of 'No Historic Properties Affected' was concurred with by the Nevada State Historic Preservation Officer (Project Record Document E-9). No other cultural sites or archaeological sites would be affected.

Clean Water Act (Public Law 92–500)

All federal agencies must comply with the provisions of the Clean Water Act (CWA), which regulates forest management activities near federal waters and riparian areas. The design features associated with the Proposed Action ensure that the terms of the CWA are met, primarily prevention of pollution caused by erosion and sedimentation.

Environmental Justice (Executive Order 12898)

Executive Order 12898 requires that all federal actions consider potentially disproportionate effects on minority and low-income communities, especially if adverse effects on environmental or human health conditions are identified. Adverse environmental or human health conditions created by any of the alternatives considered would not affect any minority or low-income neighborhood disproportionately.

The activities proposed in alternatives were based solely on the existing and desired condition of the project area. In no case were the project designs based on the demographic makeup, occupancy, property value, income level, or any other criteria reflecting the status of adjacent non-federal land. Reviewing the location, scope, and nature of the proposed alternatives in relationship to non-federal land, there is no evidence to suggest that any minority or low-income neighborhood would be affected disproportionately. Conversely, there is no evidence that any individual, group, or

portion of the community would benefit unequally from any of the actions in the proposed alternatives.

Invasive Species Management, FSM 2900

This EA recognizes both terrestrial and aquatic invasive species. An Invasive Plant Risk Assessment has been prepared (Project Record Folder G3). The project's design features are designed to minimize risk of new invasive species introductions (See section 2.1.4).

Migratory Bird Treaty Act of 1918 as amended (16 USC 703-712)

The original 1918 statute implemented the 1916 Convention between the United States and Great Britain (for Canada) for the protection of migratory birds. Later amendments implemented treaties between the United States and Mexico, Japan, and the Soviet Union (now Russia). Specific provisions in the statute include the establishment of a federal prohibition, unless permitted by regulations, to "pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, included in the terms of this Convention . . . for the protection of migratory birds . . . or any part, nest, or egg of any such bird." Because forest lands provide a substantial portion of breeding habitat, land management activities within the LTBMU can have an impact on local populations.

A Migratory Bird Report (Project Record Folder G1) has been prepared for this project which fulfills the requirements of this act and Executive Order 13186.

Special Area Designations

There are no specially designated areas that would be affected by the project (i.e., Research Natural Areas, Inventoried Roadless Areas, Wilderness Areas, and Wild and Scenic Rivers).

Tahoe Regional Planning Agency

This project will be submitted for review by TRPA consistent with the terms of the 1989 MOU between TRPA and the Forest Service. Depending on the extent of implementation phases, project permits may be required.

Local Agency Permitting Requirements and Coordination

Any ground-disturbing project activities that occur between October 15 and May 1 will require a grading exemption from TRPA. In addition, any required permits will be

obtained from TRPA and/or the NDEP or other state or local permitting agencies prior to project implementation. Project documents have been shared with both TRPA and NDEP.

IMPLEMENTATION DATE

If an objection to this draft decision is filed, implementation may occur on, but not before fifteen business days from the date of objection resolution and issuance of a final decision. If no objection is filed, implementation may begin five business days from the close of the objection period and issuance of a final decision.

ADMINISTRATIVE REVIEW OR OBJECTION OPPORTUNITIES

This decision is not subject to further administrative review or objection. Legal notice of a draft decision was published in the Tahoe Daily Tribune newspaper on September 3, 2014 and was subject to objection pursuant to 36 CFR 218, Subparts A and B. This objection period provided an opportunity for individuals and groups that had previously provided written comments on the project to voice their concerns to the Regional Forester regarding the project analysis and my draft decision. The Regional Forester delegated the role of reviewing officer to Deputy Regional Forester Ronald Ketter.

Objections to the draft decision were received in a timely manner and the project record was reviewed by the Regional Forester's team for compliance with law, regulation, and policy. An objection resolution meeting was held via teleconference and at the LTBMU Supervisor's Office via videoconference on November 24, 2014 to allow the Deputy Regional Forester to hear directly from objectors regarding their concerns and their suggestions to resolve these concerns. During this process we heard concerns and suggestions ranging from proposing selection of Alternative 1 as it could meet the purpose and need for the project, a lack of coordination with stakeholders, and that draining the lake increases bears in Incline Village as well as the opinion that there is no risk of catastrophic flood from a dam failure. A number of other letters with comments were also received during the objection period (Project Record Folder A8). They expressed some of the same concerns as I have heard previously and which I have considered in making this decision.

Objective review of the project record by the Regional Forester's team found no violations of law, regulation, or policy. Concerns raised during the objection process provide important feedback both for the LTBMU and the Forest Service. It is important to note that this decision does not preclude future efforts to address some of these concerns through the long term planning for the entire property which will be commencing in the near future. I will be coordinating that effort with all interested parties, especially those who commented and/or objected to this project.

Each objector received a written response to their objection from the reviewing officer. The

reviewing officer also provided instruction to the LTBMU for issuance of this Decision Notice. There will be no further review of this Decision Notice by any other Forest Service or US Department of Agriculture official as per 36 CFR 218.1 1(b)(2).

CONTACT AND SIGNATURE

For additional information concerning this decision or the Forest Service objection process, contact:

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Phone (530)543-2600, Fax (530)543-2693

Nancy J. Gibson — 1/2/2015

NANCY J. GIBSON — **DATE**

Forest Supervisor
Lake Tahoe Basin Management Unit

Appendices:

Appendix A – Project Design Features

Appendix B – BMP's

Appendix C – Response to Comments

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

APPENDIX A: PROJECT DESIGN FEATURES

The project direction from the Forest Supervisor was for the interdisciplinary team to prevent negative effects up-front, rather than include mitigation measures to correct effects after they occur. These prevention measures are termed "design features" because they are part of the design of the project to minimize or prevent negative environmental effects.

Activities associated with implementation of this project could have localized, short-term effects. The following design features have been incorporated into the Proposed Action and Alternatives and are intended to minimize or avoid effects on soils, water, vegetation, wildlife, fisheries, heritage resources, recreational resources, and air quality. These features are included as part of the selected alternative based upon past experience with similar projects in the Lake Tahoe Basin area and have been proven to be effective based on monitoring and professional observations.

In addition to the following design features, applicable BMPs are identified in *Water Quality Management for Forest System Lands in California* (USDA Forest Service 2000a). Adherence to these BMPs ensures compliance with the Clean Water Act. Detailed specification for these BMPs would be incorporated into the final design plans and any plans required for permitting (for example, a SWPPP (Storm Water Pollution Prevention Plan).

Botany

1. Avoidance of Botanical Resources - Occurrences of Threatened, Endangered, Proposed, Candidate and Sensitive (TEPCS) botanical species (except whitebark pine) and sensitive habitats (e.g. fens) are to be avoided completely during project activities with an appropriate buffer as determined by a staff botanist (in coordination with project leader).
2. Whitebark pine - Individual whitebark pine (Pinus albicaulis) trees will be avoided during construction. Individual trees may be removed if disease or insect infestations are present and after inspection by staff botanist and silviculturist.
3. Maintenance of suitable habitat -
    a. Project design and operations will improve or maintain the hydrologic processes that sustain water flow, water quality, water temperature, and hydrological connectivity that is critical to sustaining fen, wetland and riparian ecosystems within the vicinity of the project area (upstream and downstream of the dam) and plant species that depend on these ecosystems.
    b. In project areas that may impact suitable habitat, native wetland-associated plant species will be revegetated as needed to facilitate channel stabilization, water table maintenance, and erosion prevention.

Invasive Plants

4. Equipment Cleaning -
    a. All equipment and vehicles (Forest Service and contracted) used for project implementation must be free of invasive plant material before moving into the project area. Equipment will be considered clean when visual inspection does not reveal soil, seeds, plant material or other such debris. Cleaning shall occur at a vehicle washing station or steam-cleaning facility before the equipment and vehicles enter the project area. Equipment used during emergency work or used exclusively on paved surfaces is exempt from the cleaning requirement.
    b. When working in known invasive plant infestations or designated weed units, equipment shall be cleaned before moving to other National Forest System lands. These areas will be identified on project maps.
5. Staging areas - Do not stage equipment, materials, or crews in invasive plant-infested areas.
6. Project-related disturbance -
    a. Minimize the amount of ground and vegetation disturbance in staging and construction areas. Where feasible, reestablish vegetation on disturbed bare ground to reduce invasive species establishment; revegetation is especially important in staging areas.
    b. If staging and construction areas cannot be revegetated (active or passive) or rehabilitated within the same growing season as construction, then they will be covered until such activities can be accomplished, unless revegetation of the area is deemed unnecessary by a staff hydrologist and botanist. Cover options include, but are not limited to, 4+ inches of wood chip mulch, landscape fabric, or erosion control fabric.
7. Early Detection - Any additional infestation discovered prior to or during project implementation should be reported to the Forest Botanist or their designated appointee for prioritization and assessment for treatment.
8. Post Project Monitoring–After the project is completed the Forest Botanist should be notified so that (as funding allows) the project area can be monitored for invasive plants subsequent to project implementation.
9. Gravel, fill, and other materials - All gravel, fill, or other materials are required to be weed-free. Use onsite sand, gravel, rock, or organic matter when possible. Otherwise, obtain weed-free materials from sources that have been certified as weed-free. If an LTBMU inspector is not available to inspect material source, then the implementing contractor will provide a weed-free certificate for its material source.
10. Mulch and topsoil - Use weed-free mulches and topsoil. Salvage topsoil from project area for use in onsite revegetation, unless contaminated with invasive species. Do not use material (or soil) from areas contaminated by cheatgrass.

11. Revegetation -
    a. Seed and plant mixes must be approved the Forest Botanist or their designated appointee who has knowledge of local flora.
    b. Invasive species will not be intentionally used in revegetation. Seed lots will be tested for weed seed and test results will be provided to Forest Botanist or their designated appointee.
    c. Persistent non-natives, such as timothy (Phleum pretense), orchardgrass (Dactylis glomerata), ryegrass (Lolium spp.), or crested wheatgrass (Agropyron cristatum) will not be used in revegetation.
    d. Seed and plant material will be from native, high-elevation sources as much as possible. Plant and seed material should be collected from as close to the project area as possible, from within the same watershed, and at a similar elevation whenever possible.

Aquatic

12. Retain/add downed wood in the open meadow areas where feasible for native amphibian species. Density should be approximately three logs of > 12 inches (30 cm) diameter at midpoint per acre (0.4 ha).

13. If water drafting is needed for project implementation activities, water levels at drafting locations would be maintained to support the needs of aquatic dependent species and associated habitat. Contract administrator and/or watershed specialist will periodically check to ensure water levels are sufficient and appropriate drafting procedures (i.e. proper screening device, maintaining proper flows, etc.) are being followed. If visual monitoring (such as water level on staff plate) indicates flows are not adequate, contract administrator would consult with a hydrologist and/or aquatic biologist (see FSH 2509.22; 12.21 - Exhibit 05).

14. If drafting water, use screening devices for water drafting pumps (Fire suppression activities are exempt during initial attack). Use pumps with low entry velocity to minimize removal of aquatic species, including juvenile fish, amphibian egg masses and tadpoles, from aquatic habitats (see FSH 2509.22; 12.21 - Exhibit 05).

15. Mussels are not known to occur in the project area but if they are identified, they will be removed prior to any water diversion from channels where feasible. Feasibility will be determined in the field by Forest Service aquatic biologist and will take into consideration mussel population within and outside of the project area.

16. Salvage/recovery of fish will be conducted within anticipated construction dewatering or diversion zones operations by electro-shocking or other suitable means as developed through consultation with the Nevada Division of Wildlife and LTBMU fisheries staff. Fish will be moved approximately 500 -700 feet upstream or downstream of project

activities. Block nets will be installed to ensure fish do not move back into the project area during project activities. Nets will be cleaned one to two times daily to ensure the nets are functioning.

17. When equipment or vehicles are used at sites known or thought to be contaminated with Aquatic Invasive Species (AIS), measures will be employed following formal decontamination procedure. The Contractor shall be solely responsible for ensuring that all equipment, boats, and other aquatic equipment meet the Lake Tahoe Aquatic Invasive Species (AIS) Watercraft Inspection Program. Further information is found at www.tahoeboatinspection.com

18. During regrading of existing reservoir footprint, promote or maintain depressions to hold water through active breeding season of western toad.

Terrestrial Wildlife

19. Retain snags, preferably larger than 15 inches diameter at breast height (dbh), for wildlife unless the snag would be hazardous to operations and/or human safety. Minimize tree removal; retain some mid- and large diameter live trees that are currently in decline, have substantial wood defect, or that have desirable characteristics (teakettle branches, large diameter broken top, large cavities in the bole) to serve as future replacement snags and to provide nesting structure.

20. Existing logs (coarse woody debris) greater than 20 inches dbh would be retained where they exist, or moved and replaced following project activities. Where snags are felled for safety and/or operations, keep as coarse woody debris; preference would be given to the largest logs available in a variety of decay stages for wildlife habitat.

21. Retain red fir trees containing large witches' brooms caused by red fir broom rust (*Melampsorella caryophyllacearum*).

22. During the nesting season, conduct nest surveys of trees or other vegetation to be removed immediately prior to project activities (e.g., two weeks before any habitat disturbance) to identify nests of sensitive species . Based upon the survey results, the Responsible Official may implement a Limited Operating Period (LOP), adapt construction timelines or facility locations as determined necessary to provide adequate protection.

23. At this time the project area is not located inside or within 0.25 mile of a Protected Activity Center (PAC). If northern goshawk and/or California spotted owl are detected within the project area and determined to be nesting, a PAC will be delineated in accordance with the Sierra Nevada Forest Plan Amendment Record of Decision (SNFPA ROD). If a PAC is delineated within 0.25 mile of a project area prior to construction, an LOP would be implemented which would limit construction activities and vegetation

treatments during the breeding season (March 1 through August 31 for California spotted owl; and February 15 through September 15 for northern goshawk). The LOP may be waived if surveys confirm nesting is not occurring or if the activity is of such scale and duration that impacts to breeding California spotted owls or northern goshawks will not occur.

24. Inform implementation crew members of sensitive resources known to occur in the project area, their locations, and resource protection measures prior to implementation.

25. Any sightings of threatened, endangered, candidate, proposed, or sensitive species would be reported to the project biologist and construction would be stopped immediately if the species is found within any disturbance footprint. If construction is stopped, the project biologist will be consulted within 24 hours. Based upon this consultation, the Responsible Official may adapt construction timelines or facility locations as determined necessary to provide adequate protection.

26. No LOPs currently apply to this project. If special status wildlife species are detected in the project vicinity, the Responsible Official may implement an LOP.

Hydrology/Soils

27. Implement temporary and permanent Best Management Practices (BMP) to meet water quality objectives and maintain and improve the quality of surface water on the forest. Insure that temporary erosion control measures will be in place prior to commencing any soil disturbing activities. Methods and techniques for applying the BMPs are incorporated into the associated project plan and implementation documents. Erosion control measures may include but will not be limited to: water diversions through pumping, sandbag checkdams, and diversion pipes and hoses, silt fences, straw wattles, coir logs, water filled berms, mulching, gravel/sand bags, construction limit fencing, and revegetation.

28. The US Forest Service has recently developed technical guidance to provide uniform direction for BMP implementation on all USFS lands to protect water quality (FS-990a, 2012). The following National BMPs will be considered during project planning and analysis to develop site-specific BMP prescriptions/practices to avoid, minimize, or mitigate adverse effects to soil, water quality, and riparian resource: AqEco-2 Operations in Aquatic Ecosystems; Road-5 Temporary Roads; Road-7 Stream Crossings; Road-9 Parking and Staging Areas; Road-10 Equipment Refueling and Servicing; WatUses-6 Dam Removal.

29. Soil disturbing activities will not occur from October 15 to May 1 of each year unless a waiver is applied for and approved from TRPA. Assure that permanent or temporary erosion control measures are in place for the winter season.

30. Temporary roads may be constructed for use during this project and will be designed with the least amount of cut and fill and the fewest stream or water channel crossings. Any temporary roads will be obliterated when the one-time need is fulfilled.

31. All disturbed areas, including staging and storage sites, will be stabilized and revegetated following construction.

Cultural Resources

32. All known cultural resource sites (FS #05-19-1192) within the Project Area will either be avoided, protected in place, or mitigation will be developed. Known sites near access or staging areas will be fenced off and the Contractor and/or LTBMU construction crew staff will be notified to prevent disturbance during construction activities.

33. If unrecorded/new cultural resources (i.e., prehistoric sites, historic sites, and isolated artifacts and features) are discovered during project implementation, then work shall be halted immediately within 50 feet of the discovery and the LTBMU shall be notified, and a professional archaeologist that meets the Secretary of the Interior's Professional Qualifications Standards and Guidelines ([Code of Federal Regulations, 36 CFR Part 61]) in archaeology and/or history shall be retained to determine the significance of the discovery.

Recreation

34. Postings and public notices would be issued in advance of construction and posted at public access points and trails as well as on the LTBMU website.

35. During project implementation, construction fencing would be placed at public access points in order to deter users from continued use of the construction area during implementation.

Monitoring

The purpose of project monitoring is to track the implementation of the project design features and the prescribed BMPs (Appendix A) and, in some cases, to measure their short-term effectiveness at protecting resources. The monitoring types are defined as follows:

Implementation monitoring consists of inspections of project areas and roads to ensure that all management practices and design features are implemented as prescribed, including those designed to prevent sediment delivery and protect water quality.

Effectiveness monitoring consists of inspections of the project to evaluate the effectiveness of the prescribed design features and management practices at meeting their objectives. It includes evaluating the effectiveness of management practices designed to prevent sediment delivery and protect water quality.

Required Monitoring

For all aspects of the project, the Best Management Practice Evaluation Program (BMPEP) protocols developed by the Forest Service and the California State Water Resources Control Board (USDA Forest Service and California State Water Resources Control Board 2002) will be followed to provide qualitative information about BMP implementation and effectiveness. The Forest Service R-5 BMPEP onsite evaluation form will be used to rate the effectiveness of the BMPs. The monitoring will address the specific activities of the project and the following areas:

- Design implementation inspection and reporting.
- Soil and water BMP monitoring.
- Vegetation (tree removal) monitoring.
- Invasive plants monitoring.
- Heritage resource monitoring.
- Soil moisture monitoring.

APPENDIX B: BEST MANAGEMENT PRACTICES

This document discusses the applicable best management practices (BMPs) for the proposed action's design features. Details are provided for application of the BMPs. These BMPs are designed to reduce or eliminate direct, indirect, and cumulative impacts to soil and hydrologic conditions and to reduce potential impacts (nutrient and sediment loads, affecting lake clarity) to Lake Tahoe, a unique national feature. Actual application of these BMPs are based on the proposed action and integration (further refinement) with project design features (EA, Section 2.3.2). All applicable water quality BMPs would be implemented.

Note: The USFS recently updated the Water Quality Management Handbook (Region 5 FSH 2509.22, Chapter 10), and in turn updated several of the Regional BMPs listed below. These changes primarily affected the Road Building and Site Construction BMPs (BMP numbers 2-1 through 2-26 below) and did not change the intent of the practices, but only revised the numbering system and the descriptions. The new Water Quality Management Handbook will be used for this project and protective measures will be taken to ensure project work complies with required permit conditions including RWQCB Board Order No. R6T-2011-0019, Updated Waste Discharge Requirements and NPDES General Permit No.CAG616002 for Discharges of Storm Water Runoff Associated with Construction Activity Involving Land Disturbance in the Lake Tahoe Hydrologic unit.

Summary of revised BMPs for Road Building and Site Construction from December 2011 Water Quality Management Handbook that apply to this project

PSW Region BMPs	Best Management Practice Description
BMP 2.2: General Guidelines for Location and Design of Roads Replaces former BMP 2-1 and 2-7 National BMP Road-2	Location, design and construction of campground roads will be agreed upon by the IDT in order to result in minimal resource damage. This includes design and location of drainage features and road surfacing.
BMP 2.3: Road Construction and Reconstruction Replaces former BMP 2-3, 2-4, 2-5, 2-6, 2-9, 2-10, 2-11, and 2-13 National BMP Road-2	Temporary road construction and road re-construction activities will be conducted during the dry season, when rain and runoff are unlikely and weather and ground conditions are such that impacts to soils and water quality will be minimal. This also includes construction of drainage structures, erosion control measures on incomplete roads prior to precipitation events, and providing groundcover or mulch on disturbed areas. The contractor shall limit the amount of disturbed area at a site at any one time, and shall minimize the time that an area is left bare.

PSW Region BMPs	Best Management Practice Description
BMP 2.4: Road Maintenance and Operations Replaces former BMP 2-7, 2-22, 2-23, and 2-24 National BMP Road-2	Assess campground road maintenance needs periodically as it relates to water quality effects. Provide the basic maintenance required to protect the road and to ensure that damage to adjacent land and resources is prevented. At a minimum, maintenance must protect drainage structures and runoff patterns. This also includes road surface treatments and drainage structure improvements as needed based on road use.
BMP 2.7: Road Decommissioning National BMP Road-6	Campground roads that are not needed will be stabilized, restored and revegetated in order to protect and enhance NFS lands, resources, and water quality.
BMP 2.8: Stream Crossings Replaces former BMP 2-13, 2-15, 2-17, and 2-20 National BMP Road-2	Crossing locations shall be identified by the IDT to limit the number of crossings to minimize disturbance to the waterbody. During crossing installation, minimize streambank and riparian area excavation, ensure imported fill materials are free of toxins and invasive species, divert streamflow around work site, dewater work areas, and stabilize streambanks and other disturbed surfaces following crossing installation or maintenance. The diverted flows are returned to their natural stream course as soon as possible after construction or prior to seasonal closures. Restore the original surface of the streambed upon completing the crossing construction or maintenance. Provide soil cover on exposed surfaces and revegetate disturbed areas. Remove temporary crossing and restore waterbody profile and substrate when the need for the crossing no longer exists.
BMP 2.10: Parking and Staging Areas New BMP, no former BMP equivalent National BMP Road-9	Construct and maintain an appropriate level of drainage and runoff treatment for parking and staging areas to protect water, aquatic and riparian resources. Infiltrate as much runoff as possible using permeable surfaces and infiltration ditches or basins and limit the size of temporary parking or staging areas. Rehabilitate temporary parking or staging areas immediately following use, including preventing continued access to these areas.
BMP 2.11: Equipment Refueling and Servicing Replaces former BMP 2-12 National BMP Road-10	Service and refueling sites shall be located away from wet areas and surface water. If the volume of stored fuel at a site exceeds 1,320 gallons, project Spill Prevention, Containment, and Counter Measures (SPCC) plans are required. Contractors are required to remove service residues, waste oil, and other materials from National Forest land following completion of the project, and be prepared to take responsive actions in case of a hazardous substance spill, according to the Forest SPCC plan.

PSW Region BMPs	Best Management Practice Description
BMP 2.13: Erosion Control Plan Replaces former BMP 2-2, 2-9, and 2-18 National BMP Fac-2	Effectively plan for erosion control to control or prevent sedimentation. Prior to initiation of construction activities, prepare a general erosion control plan for limiting and mitigating erosion and sedimentation from land disturbing activities. For this project, a Stormwater Pollution Prevention Plan (SWPPP) will be used in place of an Erosion Control Plan per Regional Water Quality Control Board permit requirements. Protective measures will be taken to ensure project work complies with required permit conditions including RWQCB Board Order No. R6T-2011-0019, Updated Waste Discharge Requirements and NPDES General Permit No.CAG616002 for Discharges of Storm Water Runoff Associated with Construction Activity Involving Land Disturbance in the Lake Tahoe Hydrologic unit.
BMP 4.2: Provide Safe Drinking Water Supplies Same National BMP Fac-3	Location, design, sampling and sanitary surveys will be performed by qualified individuals who are familiar with drinking water supply systems and guidelines. Coordination and cooperation will be pursued with State or local Health Department representatives in all phases of drinking water system management. Sampling and testing frequencies vary depending on the water source, the number and type of user, and the type of test. If State or local Health Departments do not perform the water sample analysis, State Certified laboratories must be used.
BMP 4.4: Control of Sanitation Facilities Same National BMP Fac-4	State and local authorities will be consulted prior to the installation of new sanitation facilities, or modifications of existing facilities to assure compliance with all applicable State and local regulations. All phases of sanitation management (planning, design, inspection, operation, and maintenance) will be coordinated with State and local Health Departments and RWQCB representatives.
BMP 4.5: Control of Solid Waste Disposal Same National BMP Fac-5	A public education effort to control refuse disposal will be a continuing process accomplished through the use of signs, printed information, mass media, and personal contact. Solid waste disposal methods, which define and describe collection, removal, and final disposal methods are described in the operating plan. Garbage containers are planned in areas that are convenient for recreationists.
BMP 4.8: Sanitation at Hydrants and Water Faucets Within Developed Recreation Sites Same National BMP Fac-3	The public will be informed of their sanitary responsibilities by posting signs, on recreation site bulletin boards and at hydrants or faucets, and by personal contact.
BMP 4.9: Protection of Water Quality Within Developed Recreation Areas Same LTBMU Practice	In the campground, the public is encouraged through the use of signs, pamphlets, and public contact to conduct their activities in a manner that will not degrade water quality.

Appendix C
Response to Comments
From 30 Day Comment Period (May 2014)
Incline Lake Dam Project

In response to the legal notice for the 30 day comment period for the Environmental Assessment (EA), 22 comment letters were received.

All references to the EA in this document refer to the Final EA unless otherwise noted. In the event that commenters reiterate comments made to and responded to earlier in this document, these duplicated comments are noted and reference to previous responses are provided. The comments and the Forest Service (FS) responses are as follows:

Comment Letter 1 – Douglas Ouellette

Comment 1-1: The dam at Incline Lake should be restored to a safe level. Please restore the dam.

> **Forest Service Response**: *Alternative 3 describes management activities including the reconstruction of the dam to meet Federal and State standards. See Chapter 3.8 of the EA for discussion of the hazard ratings of alternative 3.*

Comment 1-2: This project could give the people a beautiful small lake that could provide great recreational opportunities for anglers, for the elderly and handicapped, and for family use.

> **Forest Service Response**: *Section 3.6 of the EA describes the effects of each alternative on scenic resources and recreation opportunities. A range of dispersed recreation opportunities would continue under each alternative. Alternative 3 would reconstruct the dams and provide a small reservoir. It is not anticipated that the reservoir could naturally sustain a fishery and would need to be stocked; however, this stocking of the reservoir is outside the scope of this project. The scope of this project is described in Section 1.5 of the EA, Purpose and Need for Action.*

Comment 1-3: The fisheries department can use this isolated water to promote native species development like the Lahontan Cutthroat Trout (LCT).

> **Forest Service Response**: *Project analysis indicates that the reservoir that would result under Alternative 3 would not support a naturally sustaining population of LCT and would require annual stocking. Section 3.1 of the EA describes the effects and environmental consequences of each alternative on aquatic wildlife. The 1995 US Fish and Wildlife Service's Recovery Plan for Lahontan Cutthroat Trout (LCT) identifies potential recovery activities within the species' historic range. The Tahoe Basin Recovery Implementation Team (TBRIT) has drafted a Short-Term Action Plan for LCT in the Tahoe Basin. The draft plan is awaiting review and guidance from the Management Oversight Group. Current recovery efforts in the Tahoe Basin for LCT focus on Fallen Leaf Lake and Upper Truckee River (headwaters). See response to comment 18-2.*

Comment Letter 2 – Donald G. and Elizabeth A. Weirauch

Comment 2-1: I would like to review the Project Record documents C6 and C7.

Forest Service Response: *Requested Project Record documents were made available following receipt of this request.*

Comment 2-2: I feel that the general public as well as the resident wildlife, would receive far more benefit from the project if the lake were restored to its former condition prior to the USFS acquisition of the property.

Forest Service Response: *See response to Comment 1-2. Sections 3.1 and 3.6 of the EA describe effects of the alternatives on aquatic and terrestrial wildlife respectively.*

Comment 2-3: Certainly the 43.5 million dollar price tag of the property included the intrinsic value of the lake. To eliminate the lake would be a disservice to the property and the U.S. taxpayers.

Forest Service Response: *During appraisal of the property, in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions, the property was valued at its "highest and best use" regardless of whether those uses exist. The appraised value of the property considered its development possibilities, which included the development of estate homes near the reservoir. This EA considers a range of alternatives consistent with the purpose and need, including Alternative 3 which would reconstruct a dam. The EA has been updated to provide additional background information regarding the Forest Service acquisition of the property. The comment regarding disservice to the property and US taxpayers is conjectural and not supported by any additional information or evidence.*

Comment 2-4: We understand that $5,485,000 was specifically appropriated for the reconstruction of the dams prior to the USFS's acquisition of the property. We also understand that the Nevada Department of Wildlife has proposed establishing a native Lahontan Cutthroat fishery in the lake...One would think that the establishment of a native LCT fishery within the Tahoe basin would be a well justified effort to re-build the dams and restore Incline Lake.

Forest Service Response: *Funding was made available to the Forest Service through the Southern Nevada Public Lands Management Act to bring the project area into compliance with relevant safety and environmental standards. This funding, along with a 2011 Court decision related to the land acquisition required the Forest Service to engage the public and analyze project activities, including a range of alternatives, consistent with the National Environmental Policy Act (NEPA) regarding the disposition of the existing dam and former reservoir within the project area. See response to Comment 1-3 regarding potential LCT fishery.*

Comment 2-5: The reconstruction of the lake provides a unique recreational opportunity and greatly enhances the whole property.

Forest Service Response: *See response to Comment 1-2.*

Comment 2-6: We support Alternative 3: Restore the existing dams.

Forest Service Response: *Thank you for your comment. Comments that state a position for or against a specific alternative are appreciated as this gives the Forest Service a*

sense of the public's feeling and beliefs about a proposed course of action. Such information can only be used by the decision maker(s) in arriving at a decision and not for improving the environmental analysis or documentation.

Comment Letter 3 – Tiffany Guevara

Comment 3-1: Incline Lake did not have a negative impact to the environment and should not have been drained. It should be returned to being a lake immediately.

Forest Service Response: *The lake was not drained because of a negative impact to the natural environment, but because of the condition of the dam and the threat to downstream communities. The lake was drained prior to USFS acquisition. The results of a site assessment completed prior to the USFS acquisition indicated that the existing dam and spillway did not meet Federal, State, or local standards for a high hazard dam and could liquefy during a seismic event. The former private land owners drained the lake to mitigate hazards to downstream properties associated with the substandard condition of the dam. See section 3.8 of the EA for a discussion of the hazard rating of each alternative. Section 2.1.3 describes Alternative 3 which includes management activities which would rebuild the dam. See response to comment 2-2.*

Comment 3-2: Lakes bring visitors with money to the region. Hotels, restaurants, grocery stores, gas stations, and fishing/hunting/hiking/biking establishment prosper with the influx of visitor revenues. Failure to protect and/or restore the lakes which bring these visitors is the equivalent of purposely putting people out of business.

Forest Service Response: *Section 1.5 of the EA describes the project's Purpose and Need. Dispersed recreation activities are occurring at the site and will continue under all alternatives. Project effects on recreation opportunities are described in Section 3.6 of the EA.*

Comment 3-3: Without the lake you have a mosquito breeding swamp with the possibility of West-Nile virus outbreaks.

Forest Service Response: *All standing water has the possibility of providing a place for mosquitos to breed. Therefore, each alternative has potential breeding habitat for mosquitos. Under each alternative the Forest Service would work with the Washoe County vector control program if a threat to human health is identified. The EA section 3.1 has been updated to include a discussion of mosquito breeding potentials related to each alternative.*

Comment 3-4: I am in strong support of Alternative #3 and against Alternative #2.

Forest Service Response: *See response to comment 2-6.*

Comment Letter 4 – Juan Sparhawk

Comment 4-1: Refill the lake and leave it alone to the laws of Nature!

Forest Service Response: *Unlike in a natural system, with a man-made structure (i.e. dam) there are federal and state standards which require maintenance actions to occur at regular intervals in order to evaluate the safety of the structure. Alternative 2, however, would be a natural system and the area restored could be left alone to the laws of nature. See response to Comment 2-2 and Comment 3-1.*

Comment 4-2: If safety is a primary issue regarding the Dam, couldn't the level of the lake be lowered to maintain safety?

> **Forest Service Response**: *The current dam does not meet existing Federal and State standards. Alternative 3 also addresses the safety of the dam by reconstructing to all Federal and State standards even though the dam would remain in a high hazard classification. Following receipt of this comment, the Forest Service considered an alternative which addresses this suggested alternative. It was calculated that in order for the dam to achieve a moderate hazard rating it would need to be constructed no higher than 6 feet. Section 2.4 of the EA describes this alternative and the reasons it was not considered in detail.*

Comment Letter 5– Ken King

Comment 5-1: If the ground can move 30 feet in an instant, then there is no plastic thick enough to prevent millions of gallons of water from cascading down the hill toward hundreds of "million dollar" homes. The cost to replace those homes would be enormous…and who know how many people would be killed. I am surprised the Forest Service would even consider restoring that dry lake bed back to a lake again which is situated above hundreds of expensive Incline homes.

> **Forest Service Response**: *Chapter 2 describes the alternatives, including the Proposed Action which would remove the dam. Chapter 3.8 of the EA describes the hazards associated with each alternative considered in detail.*

Comment 5-2: Incline doesn't need the water for drinking and they don't need the lake for recreational use. The 6th largest lake in the US butts up against their town.

> **Forest Service Response**: *Comments that state a position for or against a specific alternative are appreciated as this gives the Forest Service a sense of the public's feeling and beliefs about a proposed course of action. Such information can only be used by the decision maker(s) in arriving at a decision and not for improving the environmental analysis or documentation. The comment does not take issue with any specifics of the alternatives or environmental analysis.*

Comment 5-3: In my opinion, that piece of land should be filled in with dirt and turned into a park with grass and a playground.

> **Forest Service Response**: *The comment does not take issue with any specifics of the alternatives or environmental analysis, nor does it meet the project purpose and need.*

Comment Letter 6 – Andrew L. Sibr

Comment 6-1: Please leave the former area of the Incline Lake alone. No dam please.

> **Forest Service Response**: *Comments that state a position for or against a specific alternative are appreciated as this gives the Forest Service a sense of the public's feeling and beliefs about a proposed course of action. Such information can only be used by the decision maker(s) in arriving at a decision and not for improving the environmental analysis or documentation. See response to Comment 5-1.*

Comment Letter 7 – Mike Phillips

Comment 7-1: I support restoring the existing dams for Incline Lake thereby providing an opportunity for another high Sierra fishery.

> **Forest Service Response**: *See responses to Comment 1-2, Comment 1-3, Comment 2-6, and Comment 18-2.*

Comment Letter 8 – George A. Howell

Comment 8-1: Please restore the dam, restock the lake, and provide and additional fishery which I and many more residents in the area would thoroughly enjoy.

> **Forest Service Response**: *See response to Comment 1-2, Comment 1-3, and Comment 2-6..*

Comment Letter 9 – Steve and Cheryl Hale

Comment 9-1: We are opposed to the reconstruction of the Incline Lake dam in any alternative including Alternative 3.

> **Forest Service Response**: *Comments that state a position for or against a specific alternative are appreciated as this gives the Forest Service a sense of the public's feeling and beliefs about a proposed course of action. Such information can only be used by the decision maker(s) in arriving at a decision and not for improving the environmental analysis or documentation. See response to Comment 5-1*

Comment 9-2: Recreating the reservoir on what is now public land will encourage motorized incursions (ATVs, OHVs, dirt bikes, and snowmobiles) and pose a public safety hazard when ice is present, and attract vandalism to the dam structure and controls.

> **Forest Service Response**: *The area is closed to all motorized activities and managed for dispersed recreation and would not change under any alternative. Dispersed recreation, including access to water bodies in the winter, is valued in part for the independence it offers to recreationists, including the personal management of challenge and risk. See Section 3.6 for a description of effects to recreation by alternative.*

Comment 9-3: The cost to reengineer and construct the dam for millions of dollars is excessive and there is no demonstrated public need for recreating the reservoir, not to mention the long term cost for the Forest Service to monitor, manage, water levels, and maintain the dam structure as well as ensuring downstream flood protection from a dam overflow or breach.

> **Forest Service Response**: *See EA Chapter 3.8 for discussion of hazard rating and maintenance costs of the alternatives. See response to Comment 5-1.*

Comment 9-4: Reconstructing the reservoir will also encourage increased motorized and mountain bike trespass into the Mt. Rose Wilderness.

> **Forest Service Response**: *The area is closed to all motorized activities and managed for dispersed recreation, and this would not change under any alternative. Effects of the alternatives on recreation are described in Section 3.6 of the EA. The claim that reconstructing the reservoir under Alternative 3 would result in violations of regulations within the Mt. Rose Wilderness are conjectural and are not supported by any additional information or evidence. Also see response to Comment 9-2.*

Comment Letter 10 – Dick Oswitt

Comment 10-1: Please save Incline Lake.

Forest Service Response: *See response to Comment 2-6.*

Comment Letter 11 – Don Kanare

Comment 11-1: I support Alternative 3 for the Incline Lake Dam project.

Forest Service Response: *See response to Comment 2-6.*

Comment 11-2: The cost of Alternative 2 is not reasonable.

Forest Service Response: *Maintenance costs are considered between the alternatives. Alternative 2 has the lowest maintenance costs amongst all of the alternatives. This comment is not supported by additional information or evidence.*

Comment 11-3: The net result of Alternative 2 would be a couple of small mosquito infested waterholes and a loss of the habitat for native wildlife that existed for several decades when Incline Lake existed.

Forest Service Response: *Effects to aquatic and terrestrial wildlife are described in Sections 3.1 and 3.7 of the EA. It is anticipated that habitat for native species associated with wet meadows would be improved with Alternative 2. See response to Comment 3-3.*

Comment 11-4: One of the main reasons that we are seeing so many bears in the developed parts of Incline Village during the past several years is due to the removal of the spillway gates where water flows out of the dam. There is a direct correlation between the lake being drained and the increase of bear encounters in the residential neighborhoods in Incline Village. As a result, most of the nearby vegetation that provided excellent forage for bears and other wildlife has pretty much disintegrated in the past few years. This lack of food is causing the bears to roam downhill in search of other food sources and they eventually wind up in the residential areas where they are trapped and usually euthanized by the Nevada Department of Wildlife.

Forest Service Response: *Section 3.7 of the EA describes the effect of project alternatives on terrestrial wildlife in accordance with law, regulation, and policy. Bears are currently not identified as a species to be analyzed because they are not a federally listed, forest service sensitive, forest service management indicator, or TRPA special interest species. Furthermore, there is no evidence of a direct correlation between the lake being drained and an increase in bear encounters in the residential neighborhoods of Incline Village. The removal of the spillway gates should only result in an increase in plant growth due to the increase in available water downstream of the spillway, and therefore an increase in forage. In addition, Alternative 2 would provide for vegetation growth in the area that was previously covered by water and upstream in the restored areas. This should also increase forage.*

Comment Letter 12 – James Norton

Comment 12-1: It is our opinion that the general public as well as the resident wildlife, would receive far more benefit from the project if the lake were restored to its former condition.

Forest Service Response: *See response to Comment 2-2.*

Comment 12-2: We support Alternative 3: Restore the existing dams, thereby providing a high mountain lake and native trout fishery...

Forest Service Response: *See responses to Comment 1-2, Comment 1-3, Comment 2-6, and Comment 18-2.*

Comment Letter 13 – John Giovacco

Comment 13-1: I would love to see Incline Lake restored to its former grandeur. I support Alternative 3.

Forest Service Response: *See response to Comment 2-6.*

Comment Letter 14 – Jim Shepherd

Comment 14-1: I support Alternative 3, rebuilding the dam. There is a $5,485,000 appropriation from Round 6 of the Southern Nevada Public Land Management Act. It will benefit the most users of the public lands.

Forest Service Response: *Funding was made available to the Forest Service through the Southern Nevada Public Lands Management Act to bring the project area into compliance with relevant safety and environmental standards. This funding, along with a 2011 Court decision related to the land acquisition required the Forest Service to engage the public and analyze project activities, including a range of alternatives, consistent with the National Environmental Policy Act (NEPA) regarding the disposition of the existing dam and former reservoir within the project area. See response to Comment 2-6.*

Comment 14-2: It didn't register with you that this project was based in Washoe County, in the Great State of Nevada. I hope your failure to publicize this document and action in the primary paper covering the area of this project was an oversight and not an attempt to hide this action from those of us who live in this area and want a lake.

Forest Service Response: *Section 1.3 of the EA identifies the project area is located in Washoe County, Nevada. Numerous newspaper articles regarding this project and Environmental Assessment were published in various publications including the Reno Gazette and public meetings were held in Incline Village, Nevada and Reno, Nevada. Regulations (36 CFR 218.7(c)) also require that the USFS publish a legal notice in the official newspaper of record for the unit, which for the LTBMU is the Tahoe Daily Tribune. The 'Public Involvement' section of this DN/FONSI and Section 1.8 of the EA describes Public Involvement and Results of Public Scoping.*

Comment 14-3: Your drainage of the lake has caused ecological damage from the water running across the dry lake bottom causing headcutting that is now progressing into existing wetlands.

Forest Service Response: *The reservoir was drained prior to USFS acquisition. Head cut formation may have begun prior to draining the lake in 2008, but draining the lake has resulted in rapid growth of head cut development as flows adjust to the drop in flow gradient. Head cut growth and advancement up valley is expected to continue, without intervention (see EA Chapter 3.4).*

Comment 14-4: This property was bought from a willing owner for the recreational use of the area in and around the lake. On the basis of the intent of the purchase of this property, only your Alternative 3 should even be considered.

> **Forest Service Response**: *The property was purchased for public ownership and stewardship of sensitive lands. All alternatives support a range of dispersed recreation use; see Section 3.6 of the EA. See response to Comment 2-3.*

Comment 14-5: Desired conditions as to repairing/replacing the dams are fine, but going back to before the dam construction is not a desired condition.

> **Forest Service Response**: *See Section 1.4 of the EA. Each Alternative supports the desired condition.*

Comment 14-6: This dam and lake are a definite part of the history of this area. This site has historic significance to this area. It is very arrogant for the LTBMU to disregard the Nevada history of this location. Action 1 may need to be considered if the Nevada SHPO decides that a historic replacement is needed.

> **Forest Service Response**: *This project is consistent with Section 106 of the National Historic Preservation Act. See Section 1.11.3 and Section 3.3 of the EA. Final consultation with the Nevada SHPO will be complete prior to the issuance of a final decision.*

Comment 14-7: Under Environmental Justice, there will be an impact on lower income users. The argument that (visitors) can go to other locations in the California Sierras that have small lakes overlooks the very expensive non-resident fishing license and extra travel expenses.

> **Forest Service Response**: *Currently, there are 4 small lakes within 15 miles of the project area that provide fishing opportunities. Three of these lakes are located in NV: Marlette Lake, Hobart Reservoir, and Spooner Lake.*
>
> *The activities proposed in alternatives were based solely on the existing and desired condition of the project area. In no case were the project designs based on the demographic makeup, occupancy, property value, income level, or any other criteria reflecting the status of adjacent non-federal land. Reviewing the location, scope, and nature of the proposed alternatives in relationship to non-federal land, there is no evidence to suggest that any minority or low-income community or neighborhood would be affected disproportionately (see EA Section 1.11.5).*

Comment 14-8: There may be permitting requirements from Washoe County, Nevada.

> **Forest Service Response**: *Section 1.11.10 of the EA describes the need to coordinate with local permitting agencies and requirements.*

Comment 14-9: This is going to very expensive and the end result will be a mosquito breeding swamp.

> **Forest Service Response**: *Section 3.8 of the EA discusses maintenance requirements of each alternative. See response to Comment 3-3 and Comment 14-1.*

Comment 14-10: Where did you get the idea that a warm water species such as bluegill will establish in the lake? Bluegill will not be stocked and that statement is just a red herring. This lake will have cold water temperatures including a several month ice cover.

> **Forest Service Response**: *The Forest Service routinely analyzes potential risks of introduction associated with invasive species and the potential effects of invasive species on native species and associated habitat if habitat is being created that will support such a threat. Bluegill and other warm water invasive species will not be stocked, but are identified as a threat to native fish species (see EA, chapter 3.1). Based on the size, depth, and inflow stream characteristic under Alternative 3, the reservoir could support warm-water invasive species.*
>
> *Ice cover during periods of winter will likely occur, however this condition does not dictate the viability of a cold water fishery. Factors that influence whether a cold water fishery is viable include, but not limited to, depth of water, inflow and out flow characteristics, topography of the lake bottom, surrounding vegetation cover (shading), elevation, and aspect.*

Comment 14-11: Under hydrology, Alternative 3 should rank higher as the bank storage and injection into the underlying water table will recharge the basin.

> **Forest Service Response**: *Alternative 2 ranks the highest for hydrology because it results in restoring geomorphic and hydrologic function to the greatest area of existing and potential wet meadow/riparian SEZ that is resilient to the effects of predicted climate change. Bank storage and injection estimates were not used in evaluating environmental effects, because they do not relate to resource indicators identified in this project. This comment is conjectural and is not supported by evidence or additional information.*

Comment 14-12: Proper design of the spillway will not require "the administrative and technical capacity to manage flows out of the reservoir during extreme floods" any more than Alternative 2. This is a "red herring" and shows the lack of desire to provide recreational facilities in the LTBMU.

> **Forest Service Response**: *The commenter is correct that a properly designed spillway would not require management of flows. "Extreme floods" refers to those events that exceed the design flow of the dam. These 'Extreme floods' would require active operation of the dam control structures to prevent overtopping of the dam.*
>
> *Management of a dam would require more operations and maintenance than either of the other alternatives (see EA Chapter 3.8). Alternative 2 would require the least amount of maintenance because it would result in a naturally functioning system of wet meadow and wetlands. Recreational facilities would continue to be provided on the LTBMU and range from dispersed recreation activities such as hiking or biking trailheads to developed recreation activities such as downhill skiing, camping and water based recreation, all of which can be found in close proximity to the project area. Dispersed recreation would continue within the project area under each alternative.*

Comment 14-13: High elevation lakes are a much rarer habitat than bogs, and swamps. About a mile to the east is the Tahoe Meadows, a very large area of bogs, marshes, fens, and small creeks. I realize that these wetlands are on the balance sheet of the HTF (Humboldt-Toiyabe National Forest), but they provide the same opportunities and mosquitos that would be found in Alternative 2.

> **Forest Service Response**: *The comment regarding the rarity of high elevation lakes (Incline Lake is man-made reservoir) is not supported by the analysis, any new evidence or information. The rarity and ecological value of fens and wet meadow habitat is discussed in Section 5.1.1 of the Botanical Species Biological Evaluation (BE) and has been added to the updated EA Section 3.2. Wet meadows and fens are considered ecologically significant areas in the Lake Tahoe Basin, based on both their rarity and biodiversity (Manley and others 2000). Also see response to comment 3-3.*

Comment 14-14: Projects in the planning stage (under Cumulative Effects) should include future proposed uses on this property. This needs to be addressed and not just dismissed because the FS hasn't thought this matter through.

> **Forest Service Response**: *Section 3.0.2 of the EA describes Cumulative Effects analysis for the project consistent with law, regulation, and policy. Also see Section 3.0.3 of the EA which describes Assumptions Common to all Alternatives. There are currently no approved or proposed future uses of this project area to analyze under cumulative effects.*

Comment 14-15: Who "decided" that the desired condition was reclamation to the pre-dam condition?

> **Forest Service Response**: *The desired condition statement has been refined to state: "The desired condition for the project area is to remedy the existing condition of a high hazard dam that does not meet Federal, State or local standards. Additionally, the desired condition for the project area is to provide a sustainable hydrological system which supports groundwater dependent ecosystems and other riparian ecosystems."*

Comment 14-16: Under the species list, the California State Listing Status is irrelevant as this project is entirely within the Great State of Nevada. This area is on the boundary with FS Region 4, so Region 4's status should be considered.

> **Forest Service Response**: *The EA analyzes TRPA, Forest Service Sensitive species and federally listed (threatened, endangered, proposed, and candidate) species consistent with law, regulation, and policy. The Forest Service has coordinated with Region 4 of the Forest Service – Humboldt-Toiyabe NF regarding the wildlife analysis since the analysis area for wildlife extends beyond the Region 5 boundary and that analysis has been presented in the EA and supporting documentation. For the botanical and aquatic species analysis areas, both lie entirely within the Region 5 boundary. All proposed activities would occur within Region 5.*

Comment 14-17: At this stage, Lahontan Cutthroat Trout (LCT) could easily be restored in the Third Creek drainage. I believe that the Nevada Department of Wildlife (NDOW) would be a very willing partner in this endeavor as the watershed in and above the project area is currently almost fishless.

> **Forest Service Response**: *Restoration of LCT in the Third Creek drainage is outside of the scope of this project; see Section 1.5 of the EA. See response to Comment 18-2.*

Comment 14-18: Yosemite Toad is not native to this area, only occurring south of the Basin. If found, it should be considered an invasive species and eliminated.

> **Forest Service Response**: *Yosemite Toad is a federally listed threatened species and would be managed consistent with the Endangered Species Act if detected within the project area.*

Comment 14-19: LCT recovery is well within the scope of this project. Alternative 1 and 2 would have only very limited success while Alternative 3 would have a much better chance of success.

> **Forest Service Response**: *See response to Comment 14-17.*

Comment 14-20: This facility needs to be run at a constant level in a flow in / flow out scheme without any intervention. There should be no releases to maintain flows downstream, as there will be no augmentation of flows from the other two alternatives – if we have a dry season, the creek and springs will decrease. Total evaporative loss will be greater with the meadow/swamp/fen in Alternative 2 as you will need to account for transpiration loses from the vegetation as well as the warmer temperatures of the shallow impounded water.

> **Forest Service Response**: *Comment does not take issue with alternatives or analysis. Management of flow levels would occur to protect integrity of dam structures under Alternative 3 or to augment downstream base flows in accordance with federal law and policy.*
>
> *With regards to evaporative losses, in Alternative 2 there will be transpiration losses from vegetation; however, those transpiration losses occur under a restored meadow surface setting, as opposed to an unnatural impoundment which also evaporates water. Section 3.4 of the EA has been updated to provide additional information regarding evaporative and transpiration loss.*

Comment 14-21: There will be much better habitat for the American Bullfrogs in the Alternative 2 plan which you failed to mention.

> **Forest Service Response**: *Alternative 2 is not anticipated to result in year-round surface water or soils protected from winter freezing conditions, both of which are requirements for American Bullfrog habitat. The analysis has been updated to discuss habitat characteristics of American Bullfrog.*

Comment 14-22: The existing fens in the spring area above the high water mark of the lake could be affected by the recontouring and "restoration" work under Alternative 2. You earlier stated that the recovery would start within 2 years and be completed in 10-20 years under Alternate 2, yet you also state that fens require thousands of years to develop.

> **Forest Service Response**: *The concern for fens is preventing their degradation, not the encouragement of their new development. The FS agrees that fens require thousands of years to develop. As such, they cannot easily be restored once damaged or destroyed. Current conditions—namely channel incision and active erosion—pose a risk to directly eroding Incline Lake fen and altering the hydrological regimes of both upstream and downstream fens such that the requisite ground water level may not be maintained. The proposed action addresses those risks.*

Comment 14-23: You expressed concern for the Whitebark Pine in the area and yet you do not even mention them in your assessment of upland habitat.

> **Forest Service Response**: *Whitebark Pine is a Candidate species for listing under the Endangered Species Act and is considered in Section 3.2 of the EA. Section 3.2.4 of the EA identifies that the project "May Affect" Whitebark Pine but is not likely to accelerated listing under the ESA or result in a loss of viability for the species. Section 3.2.2 of the EA describes that surveys conducted in 2012 confirmed the absence of Whitebark Pine along the major and minor dams. Section 2.1.4 of the EA describes project design features that include management direction in the event Whitebark Pine are encountered during project implementation.*

Comment 14-24: Indirect effects listed in Alternative 1 state there will be no entombment, but the dirt from the notching of the existing dam will have to go somewhere and it will create some entombment.

> **Forest Service Response**: *Dirt from the notching of the existing dam under Alternative 1 would be used to infill areas that were excavated when the land was privately owned, see Section 2.1.1 of the EA. For clarification, the EA uses the term "entombment" as a botanical resource indicator to describe the loss of botanical habitat resulting from the impoundment of water behind a dam, see Section 3.2 of the EA.*

Comment 14-25: The fens were perfectly OK during the 70 years of the lake's existence. They have been put at risk by draining of the reservoir with the attendant change in the hydrology of the area.

> **Forest Service Response**: *The perception that fens were not at risk during the lake's existence is not supported by the analysis or any new information presented. The first comprehensive surveys of the affected fens were conducted in 2010. Risks to fens are described in Section 3.2.3 of the EA. The FS agrees that draining the reservoir prior to Forest Service acquisition of the property has changed the hydrology of the area, in particular it has resulted in increased growth of head cut development, but the head cut formation may have begun prior to draining the reservoir.*

Comment 14-26: The downcutting of the channels will lead to dry meadows and even conversion to upland habitat. This risk is a very real possibility with both Alternative 1 and 2.

> **Forest Service Response**: Section 2.1.2 *of the EA describes slope stabilization and grade control structures associated with the alternatives. Alternative 1 would only stabilize area up and downstream of the breached dam which could still lead to meadow drying because the headcutting upstream would not be addressed. Alternative 2 stabilizes the headcutting and repairs the incised channels within the project area which would actually improve meadow function. Also see response to Comment 14-22.*

Comment 14-27: Your comment "relatively high level of uncertainty in the outcomes of watershed restoration due to the complexity of interactions in hydrological and ecological processes" really sums up the crap shoot that trying to establish a wetland habitat will be.

> **Forest Service Response**: *The EA has been updated to clarify the intent of this statement. The uncertainty with respect to restoration outcomes lies in the composition and distribution of habitat types that will result from the proposed activities as stated in Section 3.2.3 of the EA. In terms of analyzing the effects to TEPCS botanical species, this level of uncertainty is not unique and does not present an unknown risk; the potential negative effects to TEPCS botanical species have been enumerated, discussed, and factored cumulatively into species-specific determinations, which state that, when considered in the context of the effects of other past, present, and reasonably foreseeable future actions, the Incline Lake Dam Project may affect individuals but is not likely to result in a trend towards federal listing for the TEPCS species associated with fens and wet habitat. This is considered a less than significant effect.*

Comment 14-28: Since the LTBMU did not do a thorough survey on the area before pulling the plug on the lake, we will not have that baseline for reference.

> **Forest Service Response**: *The lake was drained prior to Forest Service ownership. No baseline data from pre-Forest Service ownership is available.*

Comment 14-29: Since there were no known occurrences of Bolander's Candle Moss at the time of the draining there should be no impact on it. Any individuals that have colonized the dry lake bed should be considered an invasive species as it was not present before.

> **Forest Service Response**: *Bolander's Candle Moss is a Forest Service Region 5 Sensitive Species. There are seven known occurrences on the LTBMU. If this species is encountered during project implementation, standard management protocols will be followed consistent with law, regulation, and policy.*

Comment 14-30: In table 3-8, TEPCS affected should be 2-2-1 as Alt 2 has the greatest chance of damage to them due to the high risk of blowout of the rebuilt wetlands during their construction phase and if there is failure to end up as planned. Acres of at risk fens should be 3-3-1 as the current fens have done very well for the last 70 years with the lake. Alt 1 could end up with their drying out, and Alt 2 could end up destroying them while trying to re-contour the lakebed. Wet Habitat created should be 3-2-1 as Alt 1 will dewater areas, Alt 2 will make some new wetlands only if it works correctly, and Alt 3 will provide 18 acres of water surface, control the headcutting in the exposed lakebed, provide a lake riparian strip around it, and improve the hydrology of the area. Acres entombed should be 2-3-1 as the dirt from the removal of the dams

will entomb the largest amount of ground. It will be reused to build the new dams resulting in a much smaller footprint for storage during the building process. The water area is aquatic habitat not entombment.

> **Forest Service Response:** *The perceived high risk of blowout during the construction phase of restoration under Alternative 2 is not supported by the analysis or new information and is conjectural. The Forest Service agrees that analysis supports that Alternative 1 is potentially the most detrimental to fens. However, the risks to fens associated with restoration activities are present in both Alternative 2 and 3, but the risks to downstream fens associated with the impoundment are only present in Alternative 3, which contributed to its ranking as potentially the second most detrimental to fens, in terms of acres at risk.*
>
> *No new information or analysis regarding wet habitat is provided which would change the ranking and conclusions of the analysis. As stated in Section 3.2.1, areas entombed by water are not suitable habitat for terrestrial vegetation in the long-term (20+ years) to permanent timeframe. Though these areas may support aquatic vegetation, the entombed area is not considered suitable habitat for any TEPCS botanical species. Conversely, wet habitat—namely wet meadow—is considered suitable habitat for several TEPCS botanical species. Alternative 2 has the greatest potential to create wet habitat as well as maintain existing wet habitat, which is one factor as it is considered to be least detrimental to botanical resources. In addition, Alternative 3 has the potential to entomb a portion of a known TEPCS botanical occurrence (Bolander's candlemoss), which also contributed to its ranking as most detrimental to botanical resources.*

Comment 14-31: The effects of the rehab efforts will take much longer than the 2-10 years that they are forecasting. They will be lucky to halt the headcutting in that time, and it will take longer to reestablish the higher water table necessary to convert the old lake bottom into a wet meadow. Your statement that within 10 years the meadows will return to optimal conditions shows that the writer of this document has watched too many Bambi movies and/or should be a candidate for an employment drug test.

> **Forest Service Response**: *Comment disagrees with conclusion of analysis. Comment is unfounded and does not provide any additional information or evidence which would alter the analysis or conclusion. The EA has been updated to clarify the time frames regarding restoration activity.*

Comment 14-32: What they are calling 'existing channel' is the headcut that has developed up through the old lake bottom after it was drained. It will take a lot of fill to get the water so it will spread out into side channels like they are predicting. There will be a very large amount of dirt movement involved, and with the short growing seasons, it will be years until there is enough vegetation to resist the erosion of the flows. This is going to 'blow out' with high flows causing siltation downstream and even high turbidity water entering Lake Tahoe.

> **Forest Service Response**: *The lake was drained prior to USFS acquisition. Section 3.4 of the EA describes the existing channel headcuts. Section 2.1.4 of the EA describes project design features including erosion control Best Management Practices to protect water quality.*

Comment 14-33: Your assumption about the lake evaporation is totally unfounded. The evaporation loss of the lake will be less than the evaporative/transpiration losses of a similar area of wet meadow as evaporation only occurs on the surface, and there will be a whole lot more surface area of combined rivulets, ponds, streams and exposed wet vegetation in Alternative 2.

Forest Service Response: *Section 3.4 of the EA has been updated to provide additional information regarding evaporative and transpiration loss. Section 3.4.3 (Changes in flow distribution under direct effects to Alt 3) of the EA qualitatively describes evaporation associated with surface water compared to wetlands, and the commenter made no attempt to quantify the evaporation loss or transpiration loss from vegetation. It can reasonably be stated that evaporative water losses will be greater than that which occurs in a meadow ecosystem, where most of the water flows under the ground surface as subsurface and groundwater flow and is slowly metered throughout the system.*

Comment 14-34: If the spillway is correctly designed, there is absolutely no need for any "administrative burden" to control water as the lake should be a flow in—flow out system. The underflow will only need to be tested yearly per regulations and absolutely should not be used to regulate the system.

Forest Service Response: *See response to Comment 14-12.*

Comment 14-35: Alternative 3 will be more resilient to climate change than Alternative 2.

Forest Service Response: *Section 3.4.3 of the EA concludes that Alternative 3 will be more resilient to anticipated climate change than Alternative 1, but less resilient than Alternative 2. Comment disagrees with analytical conclusions but does not provide evidence or new information that would alter conclusion of environmental analysis.*

Comment 14-36: I would be very impressed if runoff from Highway 267 in any way affected this project as its highest point is over 1000' lower and 8 miles away to the west over a large ridge. Nevada highway 431 does run above the lake, and its runoff effects would be minimal.

Forest Service Response*: Reference to Highway 267 in Section 3.4.2 was an error and has been corrected to refer to Highway 431.*

Comment 14-37: Alternative 1 will leave virtually nothing noteworthy for recreation and has the potential of creating mud flows in the lower section of Third Creek and Lake Tahoe.

Forest Service Response: *NEPA analysis typically requires analysis of a No-Action alternative. Because the existing dam structures pose a hazard in their current condition, Alternative 1 is limited only to stabilization of these immediate hazards without addressing other desired landscape conditions. Chapter 3 of the EA describes environmental consequences of all alternatives considered in detail.*

Comment 14-38: Alternative 2 has a high probability of "blowing out" a couple of times before the revegetation is successful and the end product will be a mosquito filled swamp of no recreational value.

Forest Service Response: *The assertion that the project will "blow out" a couple of times is conjectural and not supported by evidence or additional information which would alter the analysis. See response to Comment 3-3 regarding potential mosquito habitat. See response to Comment 1-2 regarding recreation analysis.*

Comment 14-39: Imported materials will probably be your biggest potential source of invasives. Alt 2 will have the most imported material with its need for gravels and wetland plants for transplanting. Items like willow stakes should be gathered from the Third Creek Drainage to ensure genetic compatibility with the existing flora, and this is true of all the plants and seeds. By collecting them from this drainage, you minimize the chance of introducing invasive species.

Forest Service Response: *Section 2.1.4 of the EA describes project design features including prevention of invasive species, and use of native seed and plant materials.*

Comment 14-40: Under Alternative 1, the breached dam will remain in plain sight reminding all of the visitors that a lake used to be here and reminding them that the Forest Service tore it down.

Forest Service Response: *Section 3.6 of the EA describes the effects of Alternative 1 on recreation and scenic resources. See response to Comment 14-37.*

Comment 14-41: LCT will most likely be introduced, as this is not a warm water lake. For comparison, Spooner Lake is located 1000' lower in elevation, about the same depth, and is an excellent cold water fishery.

Forest Service Response*: Restoration and management of LCT is outside of the scope of this project's purpose and need. Spooner Lake requires regular stocking due to winter die-offs and inadequate inflow. Analysis of Alternative 3 concludes that the project area does not provide sufficient habitat to support a self-sustaining LCT population due to the relatively shallow maximum depth of the reservoir and lack of spawning habitat.*

The 1995 US Fish and Wildlife Service's Recovery Plan for Lahontan Cutthroat Trout (LCT) identifies potential recovery activities within the species historic range. The Tahoe Basin Recovery Implementation Team (TBRIT) has drafted a Short-Term Action Plan for LCT in the Tahoe Basin. The draft plan is awaiting review and guidance from the Management Oversight Group (agency executives' group responsible for oversight of LCT recovery team). Current recovery efforts in the Tahoe basin for LCT focus on Fallen Leaf Lake and Upper Truckee River (headwaters). While outside of the scope of this project, LCT restoration in Third Creek is identified in the Draft Short-Term Action Plan. Third Creek is outside of the project and analysis area, see Figure 3.1 of the EA. Also see response to Comment 18-2.

Comment 14-42: The document contradicts itself describing an easy walk for bird watchers on one page and later "steep topography and isolated location".

Forest Service Response: *The project area includes steep topography as well as graded native surface roadway access for non-motorized dispersed recreation.*

Comment 14-43: Wildfire damage is more of a possibility from the WUI down the canyon as that would take all of the suppression resources and leave the area unprotected.

Forest Service Response: *Comment does not take issue with the specifics of the alternatives or environmental analysis. The potential risk of wildfire within the project area is consistent under each alternative.*

Comment 14-44: Alternative 2 will not result in the highest quality recreational opportunity.

Forest Service Response: *Comment disagrees with conclusion of recreation analysis but does not provide any additional information which would alter the analysis or conclusion.*

Comment 14-45: Your habitat types classification is flawed as it does not take the long existing lake into consideration.

Forest Service Response: *See response to 2-2. Section 1.3 of the EA describes existing conditions within the project area. The lake was drained prior to USFS acquisition. The existing condition of the project area serves as the baseline for evaluating effects associated with each alternative considered in detail. See Section 3.6.2 of the EA.*

Comment 14-46: Water temperatures will not be high enough in the summer to affect normal cool water invertebrates.

Forest Service Response: *This comment is conjectural and does not provide evidence or additional information which might alter the analysis. The LTBMU partners with the TRPA which has been monitoring benthic macro-invertebrates as a monitoring tool since 2007. This effort is focused on assessing and monitoring stream habitat. See response to Comment 14-10.*

Comment 14-47: There are LCT in the area. In cooperation with NDOW, the system could be purged of non-native trout and LCT re-established in the refilled lake and the streams.

Forest Service Response: *LCT have not been identified within the project area. The LTBMU is a cooperating partner in the Tahoe Basin Recovery Implementation Team (TBRIT). The TBRIT has drafted a Short-Term Action Plan for the Tahoe basin. The draft plan is awaiting review and guidance from the Management Oversight Group. The draft plan identifies areas within the Tahoe basin that could provide habitat characteristic that would support future LCT recovery. Incline reservoir is not identified in the draft action plan. Efforts for LCT recovery in the Tahoe basin are currently focused on Fallen Leaf Lake and the headwaters of the Upper Truckee River. See response to Comment 14-41 and Comment 18-2.*

Comment 14-48: Comparing Incline Lake with Lake Tahoe is apples and oranges. Incline Lake is about 2000' higher in elevation than Tahoe. It is an entirely different lacustrine habitat than Tahoe and very rare in the Carson Range, and is the highest lake capable of supporting a fishery in the Nevada portion of the range.

Forest Service Response: *The comment is correct that entirely different habitats exist between Incline Lake and Lake Tahoe. Analysis concludes that the reservoir proposed under Alternative 3 could not provide habitat for self-sustaining fisheries. Section 3.1 of the EA describes the habitat limitations associated with Alternative 3. See response to Comment 2-2. No additional information or evidence is provided which would alter the analysis or its conclusions.*

Comment 14-49: Doing anything other than rebuilding the dam violates the Public Trust. The initial acquisition of the property and additional appropriation from the Southern Nevada Public

Land Management Act to rebuild the dam should tell you that this has interest at the highest level.

Forest Service Response: *Funding was made available to the Forest Service through the Southern Nevada Public Lands Management Act to bring the project area into compliance with relevant safety and environmental standards. This funding, along with a 2011 Court decision related to the land acquisition required the Forest Service to engage the public and analyze project activities, including a range of alternatives, consistent with the National Environmental Policy Act (NEPA) regarding the disposition of the existing dam and former reservoir within the project area.*

During appraisal of the property, in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions, the property was valued at its "highest and best use" regardless of whether those uses exist. The reservoir/lake was drained prior to Forest Service acquisition of the property in December 2011. See response to Comment 2-3.

Comment 14-50: Alternative 3 is the preferred alternative as it will provide the most recreational opportunities.

Forest Service Response: *See response to Comment 2-6.*

Comment 14-51: A lake with fish has great potential for use by Bald Eagles and Osprey. There are snags and other tree based potential nest sites. The nearest waterfowl management area is the Scripps WMA 6.1 miles from the project site in Washoe Valley, Nevada. That area also has had nesting Bald Eagles in recent history.

Forest Service Response: *Fish stocking was not specifically analyzed in the lake under alternative 3 because that management action is outside the scope of alternative 3. Habitat was evaluated simply on the change from current condition to lacustrine.*

For Bald eagle specifically, habitat data does not indicate that there is any high or moderate capability bald eagle nesting or perching habitat in the analysis area.

Under alternative 3, there would be an increase in lacustrine habitat and this habitat "is considered a high capability foraging habitat type for bald eagles." The EA goes on to state that bald eagles are sensitive to disturbance and if they begin using the project area under alternative 3, they could experience effects from dispersed recreational use that may accompany the creation of a lake.

Nest sites for bald eagles and osprey include large coniferous and deciduous trees, cliffs, and poletops located near or over water. Currently, the project and analysis areas are comprised predominantly of small to medium diameter trees and have very little areas of open water. The northwestern corner of the analysis area does contain some rocky outcrops that may be used for nesting but there is no open water in the project area that would be associated with nesting areas.

The EA analysis for bald eagle has been updated to consider the Scripps Wildlife Management Area.

Comment Letter 15 – Ronda Tycer and Richard Miner

Comment 15-1: We were surprised to read that the Forest Service is planning to remove the dam and spillway entirely to allow the land to go back to a marshy ecosystem with small ponds. That was not what was intended or suggested when the Forest Service bought the land.

> **Forest Service Response**: *The EA analyzes the effects of a range of alternatives. See response to Comment Form 2-4.*

Comment 15-2: Looking at a bog, even if dotted with small ponds of water, doesn't have the same psychological impact as looking at a beautiful mountain lake reflecting the amazing blue Tahoe skies. It is a totally different level of aesthetic enjoyment.

> **Forest Service Response**: *Section 3.6 of the EA describes the effects of alternatives on scenic resources. Both Alternatives 2 and 3 result in changes to scenery in the project area. Under Alternative 2, valued scenic attributes associated with wetland vegetation and naturally appearing ponds would increase. Under Alternative 3 the valued attribute of water bodies would increase, however the dam structures and resulting shallow reservoir would appear man-made and in contrast to the surrounding natural landscape character.*

Comment 15-3: We want to voice our opinion that the dam and spillway should be restored to meet contemporary safety standards – even if the lake must therefore be reconfigured at a smaller size.

> **Forest Service Response**: *See response to Comment 1-1, Comment 2-6, and Comment 4-2.*

Comment Letter 16 – Dave Beronio

Comment 16-1: My position to start is in favor of Alternative 3: Restore the existing dams, thereby providing a high mountain lake and native trout fishery within the state of Nevada.

> **Forest Service Response**: *See response to Comment 2-6.*

Comment 16-2: Without doubt the benefits of restoration far outweigh what removing the dam and turning it into wetland would provide.

> **Forest Service Response**: *See response to Comment 2-2.*

Comment 16-3: I understand that the Nevada Department of Wildlife has proposed establishing a native Lahontan Cutthroat Trout fishery in Incline Lake and have also offered to possibly provide additional funding toward that effort.

> **Forest Service Response**: *See response to Comment 18-2.*

Comment Letter 17 – Mike Sevon, Truckee River Flyfishers

Comment 17-1: We support Alternative 3.

> **Forest Service Response**: *See response to Comment 2-6.*

Comment Letter 18 – Mark Freese, Nevada Department of Wildlife (NDOW)

Comment 18-1: Incline Lake appears to be a significant reason why the Incline Lake Property was purchased. Additionally, the Secretary of the Interior, Forest Service and others supported the repair of the dam as demonstrated by the SNPLMA appropriated funding. We encourage the

FS to explore and consider repairing the dam and spillway, bringing the reservoir up to code so that public safety and quality protection are in place.

Forest Service Response: *See response to Comment 1-1, Comment 2-3, and Comment 2-4 regarding the Forest Service acquisition of the Incline Lake property and SNPLMA appropriated funding. Alternative 3 was developed in response to input during public scoping.*

Comment 18-2: NDOW proposes to manage native LCT as sport fishery upon completion of repairing the dam and filling the reservoir. The location and accessibility of Incline Lake offers a unique opportunity to showcase and educate the public about native sport fisheries in Nevada by providing what would be one of the few lakes across its range where people could have the opportunity to fish for native LCT. There is also the potential that this reservoir could be utilized as an important brood rearing area for LCT that could facilitate recovery efforts and management of LCT throughout the region. We suggest including the positives associated with LCT and public recreation regarding Alternative 3.

Forest Service Response*: Subsequent to receiving this comment the Forest Service met with NDOW and US Fish and Wildlife Service to clarify this comment. The Forest Service understands that NDOW has an interest in managing a reservoir and fishery in the project area. Project analysis indicates that the reservoir that would result under Alternative 3 would not support a naturally sustaining population of LCT and would require annual stocking. The Tahoe Basin Recovery Implementation Team (TBRIT) has drafted a Short-Term Action Plan for the Tahoe basin. This draft plan is awaiting review and guidance from the Management Oversight Group (agency executives' group responsible for oversight of LCT recovery team). The draft plan, however, did not mention Incline Reservoir. The TBRIT has not analyzed how this reservoir could contribute to broad species recovery objectives identified in the Draft Short-Term Action Plan. The Forest Service does support the current brood stock effort in Marlette Lake and future opportunities for recreation fishing opportunities for LCT in Spooner Lake, which would also require annual stocking. Please see response to Comment 14-41. Section 3.6 of the EA describes the anticipated recreation opportunities associated with Alternative 3.*

Comment 18-3: We recommend extending the comment period or providing an additional comment period as we suspect that the majority of potential users of this project (Reno, Sparks, Carson City) are unaware of these alternatives.

Forest Service Response: *Regulations do not allow extension of the comment period (36 CFR 218.25 (a)(1)). Also see response to Comment 14-2.*

Comment 18-4: Are there other alternatives that should be considered (i.e. an intermediate alternative between Alternative 2 and 3)? For example impounding a smaller amount of water than was previously impounded.

Forest Service Response: *Section 2.4 of the EA describes alternatives considered but not in detail. Also see response to Comment 4-2.*

Comment 18-5: We recommend analyzing a lake with and without developed recreation facilities and public access routes. Installing low maintenance facilities such as a pit toilet and bear resistant trash receptacles could easily resolve any trash and waste disposal issues discussed in Alternative 3.

> **Forest Service Response**: *Section 1.5 of the EA describes the project's Purpose and Need, which centers around mitigating the hazards associated with impoundment of water above residential communities. Dispersed recreation use occurs at the site and will continue under all alternatives. Project effects on recreation opportunities are described in Section 3.6 of the EA. A future planning effort will consider a long-term management of the project area including potential recreation development. Should developed recreation be considered in the future it would likely include public access routes and may include pit toilets and trash receptacles, but would be subject to a separate NEPA process.*

Comment 18-6: The issues with bull frogs are raised in Alternative 3 but not Alternative 2. In our opinion, bull frogs could be equally harmful to Alternative 2.

> **Forest Service Response**: *See response to Comment 14-21.*

Comment 18-7: Brook trout are listed as a potential issue regarding restriction of SNYLF in Alternative 3 while this discussion is omitted from Alternative 2.

> **Forest Service Response**: *Alternative 2 does discuss project effects on Sierra Nevada Yellow-Legged Frog in Section 3.1.3 of the EA. SNYLF are currently not found within the project or analysis area and are unlikely to become established under any of the alternatives considered.*

Comment 18-8: Alternative 2 states that the quality of recreation will increase the most, yet the quantity discussion is omitted. The "Recreation Opportunity" section is supposed to be discussed "as a spectrum of allowable available activities in which visitors may engage". Based upon this methodology description it appears that Alternative 3 would be of higher quality as additional recreation opportunities exist.

> **Forest Service Response**: *The analysis within the EA Section 3.6 has been updated to clarify the relationship between quantity of available recreation opportunity and the quality of that opportunity. The comparative ranking of the quality of different recreation opportunities between the different alternatives has been removed from the EA. The EA focuses on the objective quality of the opportunity within each alternative, and only compares the range of opportunities between alternatives.*

Comment 18-9: The Incline Lake property was purchased with the intent to keep the reservoir in place due in part to its scenic beauty. As such we recommend that this scenic view be fairly discussed in the Alternative 3 section of the EA rather than referring to it as a "low quality, low visibility lake".

> **Forest Service Response:** *See response to Comment 2-3 regarding the purchase of the property. Section 3.6 of the EA has been updated to clarify the analysis of scenic resources within the project area. The reservoir that would result under Alternative 3 is only visible from portions of Hwy 431 and from views within and above the project area. Scenic values associated with the property purchase considered the whole property and*

was not limited to the area of impoundment. While natural water bodies are a valued scenic characteristic in the landscape, the shallow reservoir and dam structures that would result under Alternative 3 would appear as man-made features in the landscape.

Comment 18-10: Blugill do not currently exist in the project area and their illegal introduction is outside the scope of the EA. We recommend removing this discussion from the EA.

Forest Service Response:
The Forest Service routinely analyzes potential risks of introduction associated with invasive species and the potential effects of invasive species on native species and associated habitat if habitat is being created that will support such a threat. Bluegill and other warm water invasive species will not be stocked, but are identified as a threat to native fish species (see EA, chapter 3.1). Based on the size, depth, and inflow stream characteristic under Alternative 3, the reservoir could support warm-water invasive species.See response to Comment 14-10.

Comment 18-11: Alternative 3 is the only viable and known option for promoting a federally listed species (i.e. LCT). Therefore, selecting Alternatives 1 or 2 over 3 is choosing to manage against the LCT and subsequently against the LCT recovery plan. We recommend discussing this in further detail and providing a description of FS policy as it relates to this decision.

Forest Service Response: This project is consistent with law, regulation, and policy, including the Endangered Species Act. *The LTBMU is a cooperating partner in the Tahoe Basin Recovery Implementation Team (TBRIT). The TBRIT has drafted a Short-Term Action Plan for the recovery of LTC in the Tahoe Basin. The draft plan is awaiting review and guidance from the Management Oversight Group (agency executives' group responsible for oversight of LCT recovery team). The draft plan identifies areas within the Tahoe Basin that could provide habitat characteristics that would support future LCT recovery. Incline reservoir is not identified in the draft action plan. Efforts for LCT recovery in the Tahoe basin are currently focused on Fallen Leaf Lake and the headwaters of the Upper Truckee River. No water body, including Incline reservoir, in the Tahoe Basin was mentioned in the 1995 LCT Recovery Plan. The draft short-term action plan is intended to provide federal and state agencies in the Tahoe Basin with potential recovery opportunities in the future.*

Based on a meeting with NDOW and US Fish and Wildlife Service after the receipt of this comment, NDOW clarified that under Alternative 3 the reservoir could be managed for a LCT sport fishery. The reservoir would not support a self-sustaining population of LCT. Forest Service Manual direction (2670.21) states: Manage National Forest System habitats and activities for threatened and endangered species to achieve recovery objectives so that special protection measures provided under the Endangered Species Act are no longer necessary. The TBRIT agreed that conditions requiring the long-term stocking for LCT would not satisfy conditions for LCT to be considered "recovered." See response to comment 18-2.

Comment 18-12: We disagree with the statement that the quality of swimming, fishing, and lakeside recreation activities are highly questionable. We recommend rewording this statement to state, "Alternative 3 offers additional recreation opportunities including swimming, fishing,

and lakeside recreation activities that are not offered under other Alternatives. Fishing opportunities could consist of fishing for native LCT."

Forest Service Response: *Section 3.6 of the EA states that Alternative 3 offers additional recreation opportunities including swimming, fishing, and lakeside recreation opportunities that are not offered under other alternatives. The EA has been updated to clarify the analysis. Reservoir fishing opportunities would exist under Alternative 3, however stocking of fish is not proposed. Analysis concludes that the reservoir under this alternative would not support a self-supporting cool water fishery.*

Comment 18-13: The mention of illegal storage of personal property under Alternative 3 appears unfair as any of the alternatives could have this occur.

Forest Service Response: *This topic of analysis has been clarified in the EA.*

Comment 18-14: We disagree with the characterization of Incline Lake as "isolated" as it is within 125 meters of Highway NV-431. The general public would likely have no problems accessing Incline Lake as other areas throughout the Tahoe Basin that are much more remote.

Forest Service Response: *From a recreation management perspective, this property provides dispersed recreation opportunities rather than developed opportunities at this time. The term "isolated" was used to describe the access to the project area. While the site is physically located in close proximity to Highway 431, access to the site is limited by topography and by the ability of the general public to reach the site. Under all Alternatives the site continue to be accessed by walking approximately 1 mile along the entrance road, and would require the traversing of topography that exceeds that of an accessible trail or outdoor recreation access route (ORAR). Public access is limited to non-motorized means. The EA has been updated to clarify the isolated location with respect to the access to the site.*

<u>Form Letter #1 from</u>: Tom Peterson (Letter 19), Colt Thurston (Letter 20), and Jim Gronski (Letter 21).

Comment Form1-1: I feel that the general public as well as the resident wildlife, would receive far more benefit from the project if the lake were restored to its former condition prior to the USFS acquisition of the property.

Forest Service Response: *See response to Comment 2-2.*

Comment Form1-2: Restoring the existing dams would provide an excellent opportunity for another high Sierra fishery.

Forest Service Response: *See responses to Comment 1-2, Comment 1-3, and Comment 18-2.*

Comment Form1-3: I am writing to voice my support for Alternative #3.

Forest Service Response: *See response to Comment 2-6.*

<u>Form Letter # 2</u> from: Kevin CK Baily (Letter 22), William Hammons (Letter 23), David Conklin (Letter 24), Norman G. Williams (Letter 25), Richard J. Padgett (Letter 26), George Casselman (Letter 27), and Carson Fly Fishing Club/Ernie Walsh (Letter 28).
Comment Form2-1: The Carson Fly Fishing Club supports alternative #3, to repair the dams to current federal, state, and local requirements and refill the lake. There was $5,485,000 specifically appropriated in 2008 for the reconstruction of the dams. We believe this would go a long way toward the reconstruction of the dams and the refilling of the lake.

Forest Service Response: *See response to Comments 1-3, 2-4, and 2-6.*

Comment Form2-2: We believe the lake should be maintained as part of the natural beauty of the site.

Forest Service Response: *See response to Comment 1-2, and Comment 2-6.*

Comment Form2-3: The lake should be maintained as a fishery as fisheries are few and far between in Nevada.

Forest Service Response: *See response to Comment 1-3.*

Comment Form2-4: The reconstruction of the lake provides a unique recreational opportunity and greatly enhances the whole property.

Forest Service Response: *See response to Comments 1-2 and 2-2.*

Comment Form2-4a: Surely the $43,500,000 paid for the property reflected the value of the lake and not just an island of trees surrounded by forest!

Forest Service Response: *See response to Comment 2-3. During appraisal of the property, in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions, the property was valued at its "highest and best use" regardless of whether those uses exist. The reservoir/lake was drained prior to Forest Service acquisition of the property in December 2011.*

<u>Form Letter #3</u> from: Curtis Gowin (Letter 29), Dave Ryniec (Letter 30), Norris Edson (Letter 31), Anne Marie Neacy (Letter 32), and James Lyle (Letter 33).
Comment Form3-1: I feel that the general public as well as the resident wildlife, would receive far more benefit from the project if the lake were restored to its former condition prior to the USFS acquisition of the property.

Forest Service Response: *See response to Comment 1-2, and Comment 2-2.*

Comment Form3-2: Certainly the 43 million (+) dollar price tag of the property included the intrinsic value of the lake at the time of the acquisition. To now eliminate the lake would be a disservice to the property and the American tax payer.

Forest Service Response: *See response to Comment 2-3, and Comment Form2-4a.*

Comment Form3-3: I also understand that over 5 million dollars was specifically appropriated for the reconstruction of the dams prior to the property being acquired and that the Nevada Department of Wildlife has proposed establishing a native Lahontan Cutthroat fishery in the lake...One would think that the establishment of a native LCT fishery within the Tahoe basin would be a well justified effort to re-build the dams and restore Incline Lake.

Forest Service Response: *See response to Comments 1-3, Comment 2-4, and Comment 18-2.*

Comment Form3-3: I am writing to voice my support for Alternative #3.

Forest Service Response: *See response to Comment 2-6.*

<u>Form Letter #4</u> from: Terry Foust (Letter 34), Ken Baldwin (Letter 35), Bill Baltz (Letter 36), Jon Blakely (Letter 37), Bradkey (Letter 38), and David and Patricia Sorokwasz (Letter 39).

Comment Form4-1: I feel that the general public as well as the resident wildlife, would receive far more benefit from the project if the lake were restored to its former condition prior to the USFS acquisition of the property.

Forest Service Response: *See response to Comment 2-2.*

Comment Form4-2: Certainly the 43.5 million dollar price tag of the property included the intrinsic value of the lake. To eliminate the lake would be a disservice to the property and the U.S. taxpayers.

Forest Service Response: *See response to Comment 2-3, and Comment Form2-4a.*

Comment Form4-3: I understand that $5,485,000 was specifically appropriated for the reconstruction of the dams prior to the USFS's acquisition of the property. I also understand that the Nevada Department of Wildlife has proposed establishing a native Lahontan Cutthroat fishery in the lake...One would think that the establishment of a native LCT fishery within the Tahoe basin would be a well justified effort to re-build the dams and restore Incline Lake.

Forest Service Response: *See response to Comments 1-3, Comment 2-4, and Comment 18-2.*

Comment Form4-4: The reconstruction of the lake provides a unique recreational opportunity and greatly enhances the whole property.

Forest Service Response: *See response to Comments 1-2 and 2-2.*

Comment Form4-5: I support Alternative 3: Restore the existing dams, thereby providing a high mountain lake and native trout fishery...

Forest Service Response: *See responses to Comments 1-2, 1-3, and 2-6.*