

MINUTE ITEM

27

09/14/88
W 30005
Moory

RECONSIDERATION OF THE COMMISSION'S POLICY;
CONSTRUCTION OF NEW PIERS AND PIER EXTENSIONS IN
LAKE TAHOE, EL DORADO AND PLACER COUNTIES

During consideration of Item 27, attached, Gregg Lien of the Tahoe Sierra Preservation Council, appeared to address the issue of deadlines and the proposal to impose a new moratorium to view modifications and extensions.

Jerry Wells, Chief of Project Review with Tahoe Regional Planning Agency, appeared to clarify some points that were brought out in the staff summary.

Supervising Deputy Attorney General Jan Stevens amplified on the areas that TRPA, through their regulations, do not have the ability to exempt extension and new piers.

Acting Chairperson Tucker expressed concern with the item as presented, and requested that this item be put over and directed staff to write up a policy that is consistent with the discussion of today.

Commission action was deferred.

Attachment: Calendar Item 27.

CALENDAR PAGE	
MINUTE PAGE	2756

CALENDAR ITEM

A 7

27

09/14/88

W 30005

S 1

Moory

CONSTRUCTION OF NEW PIERS AND PIER EXTENSIONS

APPLICANT: State Lands Commission
1807 13th Street
Sacramento, California 95814

At its November 1978 meeting, the Commission suspended all leasing for construction of new piers at Lake Tahoe, excepting mooring buoys and multiple-use facilities, until June 30, 1979. The intent of this interim policy was to allow time for the Commission staff to explore funding sources, including a State appropriation in the Commission's budget, for the preparation and initiation of a research effort which would address the cumulative impacts associated with additional boating and recreation facilities in the Tahoe shorezone.

In August 1979, the Commission extended this policy through December 1979, subject to staff working: (1) with the California Tahoe Regional Planning Agency (CTRPA) to develop a full range of alternatives for management of the Tahoe shorezone; and (2) to acquire the funding necessary to conduct a scientific study of the environmental effects of development in the Tahoe shorezone.

By adopting the Shorezone Ordinance of the Tahoe Regional Planning Agency (TRPA), the California Tahoe Regional Planning Agency (CTRPA) became the "Lead Agency", under the provisions of the California Environmental Quality Act of 1970, as amended, in the consideration of such private structures.

In January 1981, the Commission extended this policy until December 1983, when the Commission's study of the effects of piers would be completed. The Commission again recognized the status of the California Tahoe Regional Planning Agency as lead agency for purposes of CEQA.

CAL. BOARD PAGE	169
MINUTE PAGE	2756.1

CALENDAR ITEM NO. 27 (CONT'D)

Subsequent to this action, two developments occurred which required reconsideration of this policy. First, a new bistate compact for the Tahoe Regional Planning Agency (TRPA) was agreed to by California and Nevada. This compact required TRPA to prepare threshold studies for further development in the Lake Tahoe Basin. Second, both CTRPA and TRPA prohibited any additional construction of either single- or multiple-use piers in Lake Tahoe or the extension of existing piers. These prohibitions were designed to continue until TRPA updated the Regional Plan to consider the threshold limit for piers. This update was to be based upon the data supplied from the Commission study. In furtherance of this policy, neither agency was accepting permit applications for new piers or extension (length of structure, etc.) of existing piers.

As a result, the Commission, at its meeting of April 22, 1982, adopted a policy "under which it would no longer accept applications for new piers or pier extensions at Lake Tahoe until the Tahoe Regional Planning Agency (TRPA) has updated its Regional Plan for the shorezone of Lake Tahoe".

The study of the littoral zone of Lake Tahoe focused on the cumulative impacts of pier development on littoral sediment transport. The study was funded by a \$175,000 appropriation from the California Environmental License Plate Fund and was performed under contract with the Department of Geological Sciences at the University of Southern California.

Results of the study showed that the littoral zone was highly segmented and there was little littoral zone transport of sediment between these segments. It also showed that most of the sediment that was present on the beaches was derived from the erosion of backshore cliffs and not from streams entering the lake. Evidence was found that piers did have a small effect on littoral sediment transport, but there was no evidence that this effect was cumulative. No studies were made of other environmental impacts - cumulative or otherwise - of added pier construction.

On July 15, 1987, TRPA adopted their shorezone ordinance to implement their previously adopted Regional Plan. Although the plan and ordinance allow the construction of new structures in Lake Tahoe, TRPA indicated that it is continuing to restrict development of new piers and pier replacements in certain areas of the lake until an analysis is done to determine the impacts of structures on fish spawning and fish habitat. The general

CALENDAR ITEM NO. 27 (CONT'D)

boundaries of the areas designated as prime fish habitat, fish spawning, and habitat restoration are shown on the maps contained in Exhibit "A". New construction of piers or pier replacements are generally not permitted in areas designated as prime fish habitat, fish spawning, or fish habitat restoration area. The TRPA and California Department of Fish and Game can determine, however, that a proposed project appearing on the maps, as located in a designated prime fish habitat, fish spawning, or fish habitat restoration area, is not in such a location after reviewing the characteristics of the site in the field. The TRPA has begun issuing permits for piers and pier extensions in areas not designated on the maps in Exhibit "A" and in areas determined to be inaccurately designated as prime fish habitat, fish spawning, and fish habitat restoration areas.

Staff recommends the acceptance of applications only when a valid TRPA permit has been issued.

The TRPA ordinance clearly prohibits the construction of new piers in prime fish habitat, fish spawning and fish habitat areas. However, the TRPA Executive Officer has construed the ordinance to permit extensions or modifications resulting in increased intrusion in such areas. The Attorney General's office disagrees with this interpretation, and has advised Commission staff that TRPA cannot issue valid permits for such extensions or enlargements. Until this controversy is resolved, staff recommends that no applications for new piers, pier extensions or pier modifications resulting in increased intrusion in such areas be accepted. The recommended action authorizes Commission staff to accept only applications accompanied by a valid TRPA permit. So long as the Commission is advised by counsel that TRPA cannot issue valid permits for new piers, pier extensions or more intrusive modifications in these sensitive areas, applications accompanied by such permits will not be accepted.

Subsequent to the establishment of the pier policy by the the Commission in 1978, litigation confirmed the State's ownership to the low water mark at Lake Tahoe and other waterways of California. The Court, in Lyon v Fogerty, also established the Public Trust easement to those lands lying between the high water and low water elevation in Lake Tahoe; these lands lie between elevation 6,223 feet and 6,228.75 feet, Lake Tahoe Datum.

CALENDAR ITEM NO. 27 (CONT'D)

Many trust uses occur at Lake Tahoe including: recreational fishing, beach use, environmental protection, boating, water-skiing, sailing, and swimming, among others. Private recreational piers, under some circumstances, may conflict with these other Public Trust uses at particular shorezone locations. Staff believes that the full range of trust uses should be reviewed and considered during the processing of any application for modification, replacement, or extension of an existing pier, or a new pier. This review should include: (1) Consulting with other agencies whose programs affect the Lake Tahoe Basin about uses which may exist in the area; and 2) an actual site visit so that staff can verify whether any potential conflicts might occur as a result of the project. Staff's findings would be included in subsequent calendar items for the Commission's consideration.

Staff estimates that .5-person-days to check with other agencies and one (1) day to conduct a site visit will be required. Staff recommends that the cost of the investigations, estimated to be approximately \$700 each, should be borne by Applicants.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Adm. Code 15378.

AB 884: N/A.

EXHIBIT: A. Habitat Maps.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.

SEARCH PAGE	172
FILE NO.	2759

CALENDAR ITEM NO. 27 (CONT'D)

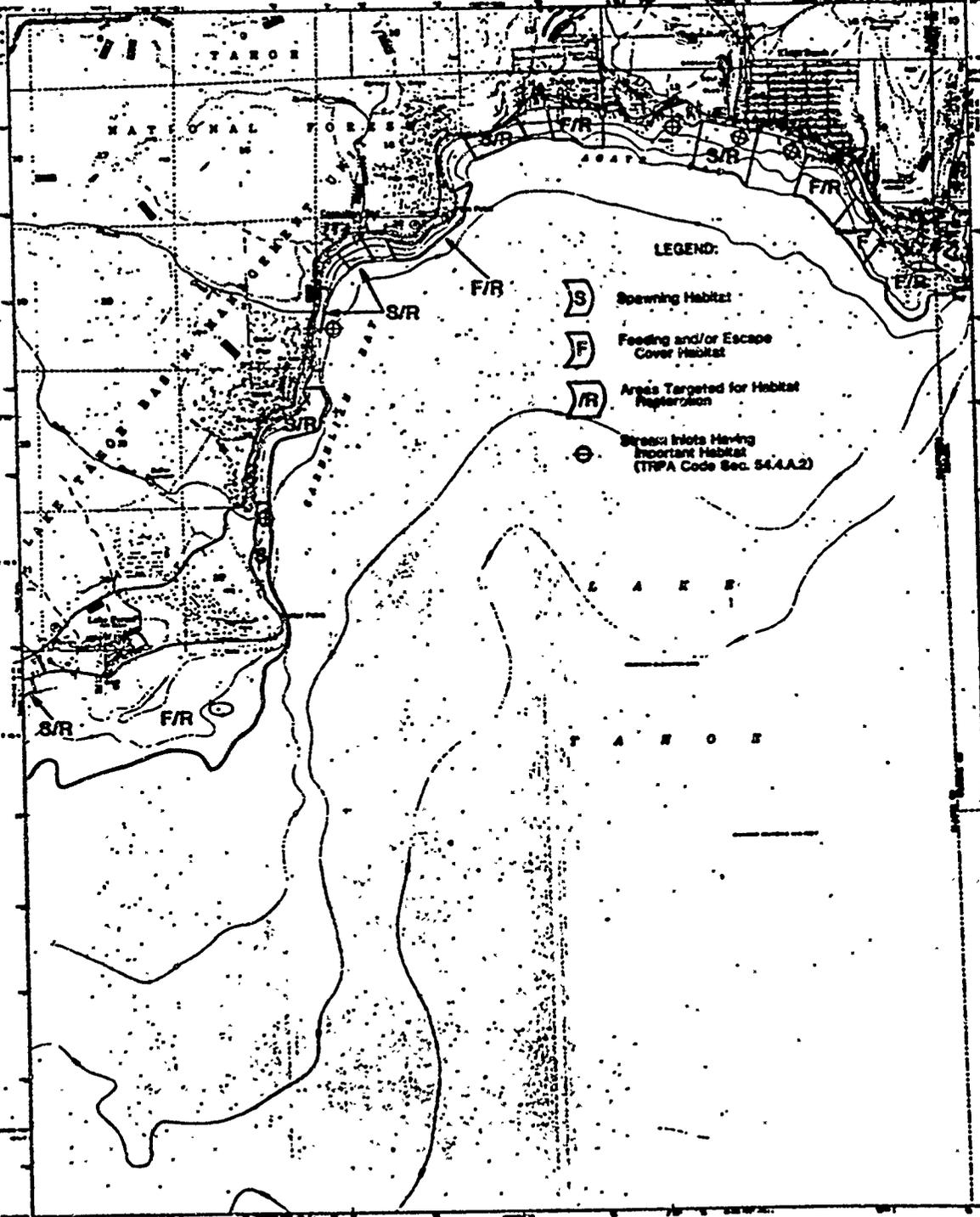
2. AUTHORIZE STAFF TO ACCEPT AND PROCESS APPLICATIONS FOR NEW PIERS, AND APPLICATIONS FOR EXTENSIONS, REPLACEMENTS, OR MODIFICATIONS OF EXISTING PIERS AT LAKE TAHOE, WHICH HAVE RECEIVED AND ARE ACCOMPANIED BY A VALID TRPA PERMIT.
3. DIRECT STAFF TO CONSIDER ALL APPLICABLE PUBLIC TRUST USES OF LAKE TAHOE WHEN EVALUATING APPLICATIONS FOR NEW PIERS, PIER REPLACEMENTS, MODIFICATIONS, OR EXTENSIONS, AND TO EVALUATE AND REPORT USES, WHICH COULD BE AFFECTED, TO THE COMMISSION WHEN IT CONSIDERS AN APPLICATION FOR SUCH PROJECTS.
4. DIRECT STAFF TO TAKE ALL STEPS NECESSARY TO DEVELOP AND IMPLEMENT A PROCESS TO REIMBURSE THE COMMISSION FOR ALL COSTS ASSOCIATED WITH SUCH PUBLIC TRUST EVALUATIONS.

OR. BOARD PAGE	173
MINOR PAGE	2760

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
MODIFIED FOR FOREST SERVICE USE

EXHIBIT "A"

KINGS BEACH DAMPENS
PLANNED BY THE FOREST SERVICE
BY EARLE MERRILL



LEGEND:

- (S) Spawning Habitat
- (F) Feeding and/or Escape Cover Habitat
- (R) Areas Targeted for Habitat Restoration
- ⊕ Stream Inlets Having Important Habitat (ITRPA Code Sec. 54.4A.2)

PRIME FISH HABITAT	

Planning and construction of the Kings Beach Dam and its appurtenant facilities shall be in accordance with the provisions of the National Flood Insurance Act of 1968, as amended, and the National Flood Insurance Administration's regulations thereunder.



- Topographic Contour
- Stream Channel
- Stream Inlet
- Road
- Railroad
- Electric Line
- Telephone Line
- Pipeline
- Utility Pole
- Well
- Spring
- Dam
- Dam Foundation
- Dam Abutment
- Dam Spillway
- Dam Outlet
- Dam Structure
- Dam Foundation
- Dam Abutment
- Dam Spillway
- Dam Outlet
- Dam Structure

PROJECT NAME: KINGS BEACH DAM
KINGS BEACH, CALIF.-NEV.
DATE: 1-19-68
F. S. NO. 538-1C
1968

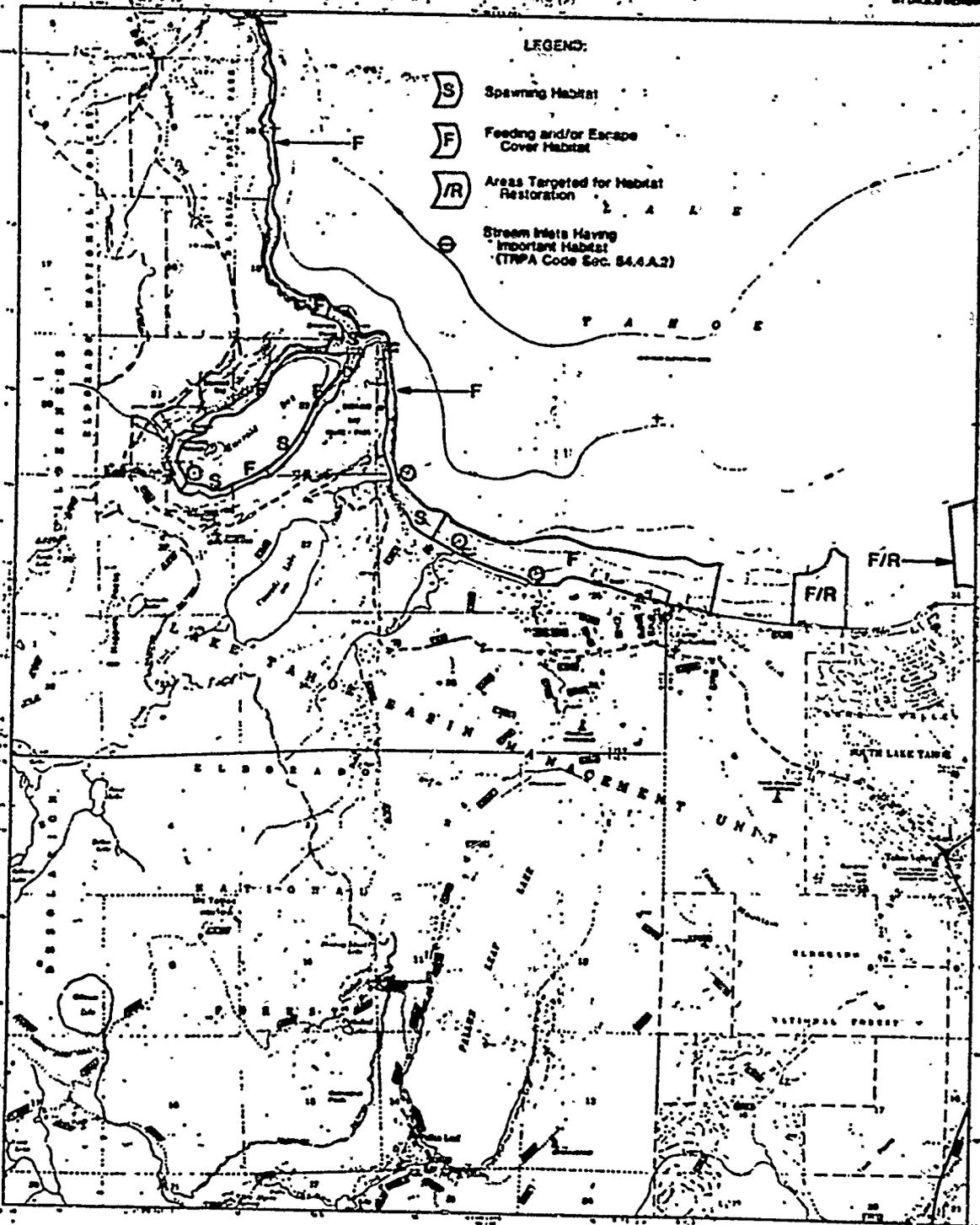
CALNDAR PAGE 174
MINUTE PAGE 2767

EXHIBIT "A"

W 30005

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
MODIFIED FOR FOREST SERVICE USE

EMERALD BAY QUADRANGLE
IN SERIES C-1
BY DAVIS & WOODRUFF



LEGEND:

- Spawning Habitat
- Feeding and/or Escape Cover Habitat
- Area Targeted for Habitat Restoration
- Stream Inlets Having Important Habitat (TRPA Code Sec. 84.6.A.2)

PRIME FISH HABITAT	
Project No.	178
Scale	1:50,000
Date	1978
Author	W. J. G. ...
Editor	...
Reviewer	...
Checked by	...
Approved by	...

Approved for publication by the Director, Geological Survey, Washington, D.C., on 10/10/78. This map is a modification of the original map by Davis & Woodruff, 1910. The original map is available for purchase from the Superintendent of Documents, Washington, D.C. 20540. Price \$1.50 per copy plus postage. Single copies are available for purchase from the Superintendent of Documents, Washington, D.C. 20540. Price \$1.50 per copy plus postage. Single copies are available for purchase from the Superintendent of Documents, Washington, D.C. 20540. Price \$1.50 per copy plus postage.



SYMBOLS

- Boundary
- Road
- Stream
- Stream Inlet
- Stream Inlet
- Stream Inlet Having Important Habitat
- Area Targeted for Habitat Restoration
- Spawning Habitat
- Feeding and/or Escape Cover Habitat
- National Forest
- Private Land
- State Land
- Federal Land
- Other Land

PROPERTY BASE MAP
EMERALD BAY, CALIFORNIA
SCALE 1:50,000

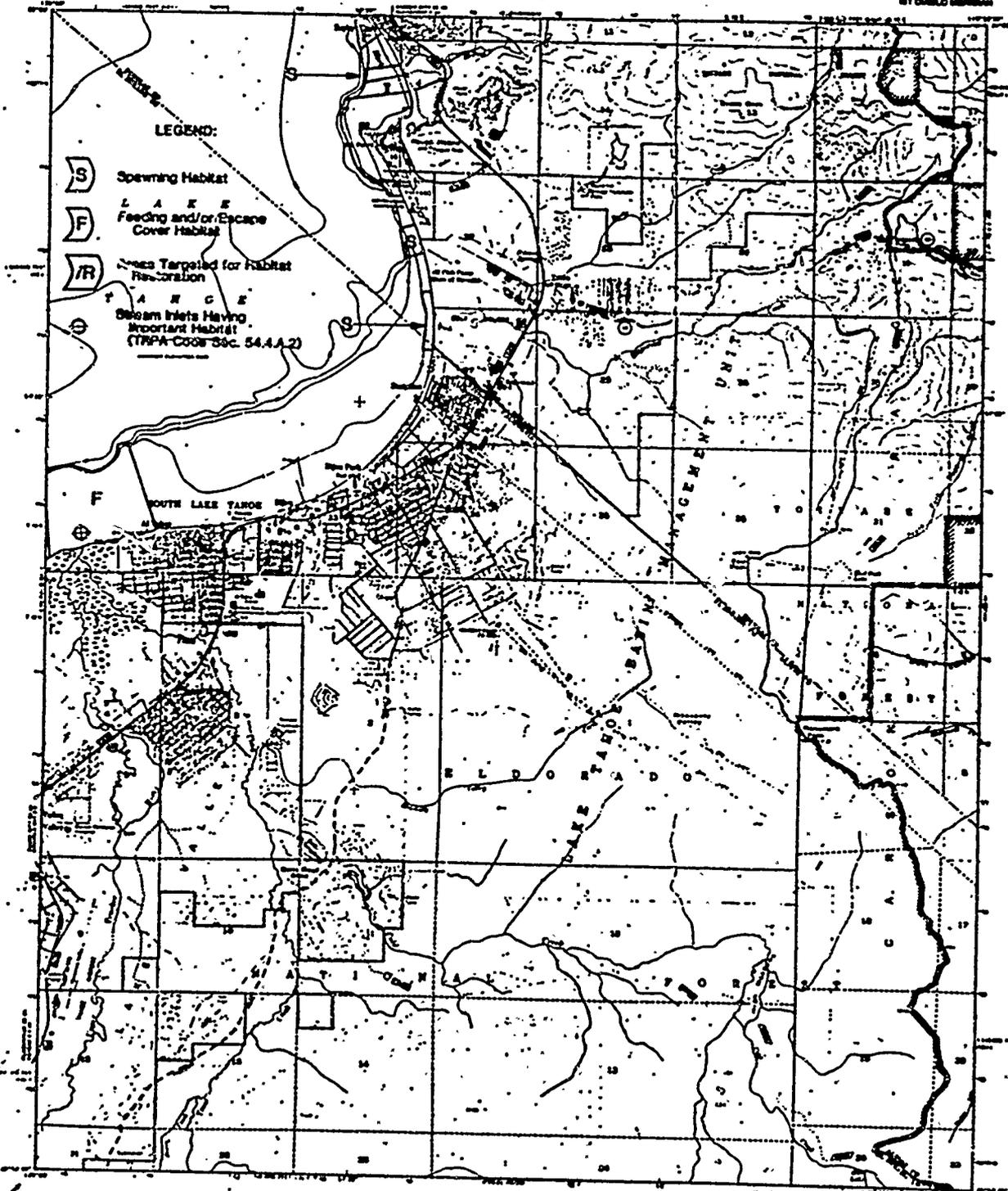
CALIFORNIA SERVICE 178
MINUTE OF 2765

EXHIBIT "A"

W 30005

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
MODIFIED FOR FOREST SERVICE USE

SOUTH LAKE TAHOE SUBWATERSHED
ALPINE GOATSUCKER AND SILVER SALMON
HABITAT RESTORATION



LEGEND:

- (S)** Spawning Habitat
- (F)** LAKE Feeding and/or Escape Cover Habitat
- (IR)** Areas Targeted for Habitat Restoration
- (○)** Stream Inlets Having Important Habitat (TRPA Code Sec. 54.4.A.2)

PRIME FISH HABITAT	
○	Stream
○	Reserve
○	Other

Map showing the location of the South Lake Tahoe Subwatershed within the larger context of the Tahoe National Forest and the State of California. The map includes a scale bar and a north arrow.



- 100-foot Contour
- 200-foot Contour
- 300-foot Contour
- 400-foot Contour
- 500-foot Contour
- 600-foot Contour
- 700-foot Contour
- 800-foot Contour
- 900-foot Contour
- 1000-foot Contour
- 1200-foot Contour
- 1400-foot Contour
- 1600-foot Contour
- 1800-foot Contour
- 2000-foot Contour
- 2200-foot Contour
- 2400-foot Contour
- 2600-foot Contour
- 2800-foot Contour
- 3000-foot Contour
- 3200-foot Contour
- 3400-foot Contour
- 3600-foot Contour
- 3800-foot Contour
- 4000-foot Contour
- 4200-foot Contour
- 4400-foot Contour
- 4600-foot Contour
- 4800-foot Contour
- 5000-foot Contour
- 5200-foot Contour
- 5400-foot Contour
- 5600-foot Contour
- 5800-foot Contour
- 6000-foot Contour
- 6200-foot Contour
- 6400-foot Contour
- 6600-foot Contour
- 6800-foot Contour
- 7000-foot Contour
- 7200-foot Contour
- 7400-foot Contour
- 7600-foot Contour
- 7800-foot Contour
- 8000-foot Contour
- 8200-foot Contour
- 8400-foot Contour
- 8600-foot Contour
- 8800-foot Contour
- 9000-foot Contour
- 9200-foot Contour
- 9400-foot Contour
- 9600-foot Contour
- 9800-foot Contour
- 1000-foot Contour
- 1100-foot Contour
- 1200-foot Contour
- 1300-foot Contour
- 1400-foot Contour
- 1500-foot Contour
- 1600-foot Contour
- 1700-foot Contour
- 1800-foot Contour
- 1900-foot Contour
- 2000-foot Contour
- 2100-foot Contour
- 2200-foot Contour
- 2300-foot Contour
- 2400-foot Contour
- 2500-foot Contour
- 2600-foot Contour
- 2700-foot Contour
- 2800-foot Contour
- 2900-foot Contour
- 3000-foot Contour
- 3100-foot Contour
- 3200-foot Contour
- 3300-foot Contour
- 3400-foot Contour
- 3500-foot Contour
- 3600-foot Contour
- 3700-foot Contour
- 3800-foot Contour
- 3900-foot Contour
- 4000-foot Contour
- 4100-foot Contour
- 4200-foot Contour
- 4300-foot Contour
- 4400-foot Contour
- 4500-foot Contour
- 4600-foot Contour
- 4700-foot Contour
- 4800-foot Contour
- 4900-foot Contour
- 5000-foot Contour
- 5100-foot Contour
- 5200-foot Contour
- 5300-foot Contour
- 5400-foot Contour
- 5500-foot Contour
- 5600-foot Contour
- 5700-foot Contour
- 5800-foot Contour
- 5900-foot Contour
- 6000-foot Contour
- 6100-foot Contour
- 6200-foot Contour
- 6300-foot Contour
- 6400-foot Contour
- 6500-foot Contour
- 6600-foot Contour
- 6700-foot Contour
- 6800-foot Contour
- 6900-foot Contour
- 7000-foot Contour
- 7100-foot Contour
- 7200-foot Contour
- 7300-foot Contour
- 7400-foot Contour
- 7500-foot Contour
- 7600-foot Contour
- 7700-foot Contour
- 7800-foot Contour
- 7900-foot Contour
- 8000-foot Contour
- 8100-foot Contour
- 8200-foot Contour
- 8300-foot Contour
- 8400-foot Contour
- 8500-foot Contour
- 8600-foot Contour
- 8700-foot Contour
- 8800-foot Contour
- 8900-foot Contour
- 9000-foot Contour
- 9100-foot Contour
- 9200-foot Contour
- 9300-foot Contour
- 9400-foot Contour
- 9500-foot Contour
- 9600-foot Contour
- 9700-foot Contour
- 9800-foot Contour
- 9900-foot Contour
- 10000-foot Contour

PRIMARY DATE SERIES MAP
SOUTH LAKE TAHOE, CALIF.-NEV.
GSD 5-60-1000 5-73
F. S. NO. 522-2C
1973

CAL SURFACE	179
MINING	2766