

## MEMORANDUM

October 10, 2005

To: EIP 16 Steering Group

From: Brendan Ferry, Associate Environmental Specialist II

Re: TRPA Code Interpretation—Driveway Paving

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The intent of this memo is to provide direction to staff regarding paving compacted bare soil driveways, for the purpose of BMP Retrofit, that exceed the respective local jurisdiction's minimum allowable parking area.

### **Policy Statement:**

For the purpose of BMP Retrofit, TRPA's Erosion Control Team will provide a BMP Retrofit Permit that allows Lake Tahoe property owners to pave a "reasonably sized" existing compacted parking area that may exceed the local jurisdiction's minimum parking area requirement, if all rules and permit requirements of the local jurisdiction are adhered to and the property owner agrees to do all other BMPs on the property.

### **Background:**

As you know, the Tahoe Regional Planning Agency is charged with protecting the unique environment of the Lake Tahoe Region. TRPA has created Goals and Policies, supported by a Code of Ordinances, in order to meet this charge and to remain in accordance with the Water Quality Management Plan for the Lake Tahoe Basin (the 208 Plan). Occasionally, it is necessary to make interpretations of how TRPA's Code of Ordinances apply in certain circumstances. Based on the authority granted by the United States Congress, TRPA retains the ability to make policy decisions based on interpretation of the TRPA Code of Ordinances. Following, find further information on such Code interpretations as have been identified by TRPA staff. Should you have any questions regarding how TRPA Code can be clarified, please contact TRPA staff directly for guidance. To serve as a basis for this memo, references to driveway standards within TRPA's Code of Ordinances are as follows:

#### **Chapter 24 – Driveway and Parking Standards**

Chapter 24.2.A defines a driveway as a clearly identifiable path of vehicular access from the parking area of a parcel to the public right-of-way or other access road.

#### **Chapter 25 – Best Management Practice Requirements**

Chapter 25.5.E states that all roads, driveways and parking areas proposed for year round use shall be paved in accordance with Chapter 24.

Chapter 25.4(a) states that paving legally established roads, driveways and parking areas is the highest priority for the installation of retrofitting measures.

### **Justification:**

In order to help meet water quality objectives in the Lake Tahoe Basin, all owners of developed property that are accessible for year round use must have a paved driveway with a hard, plow-able surface. Bare soil areas serving as driveways are so compacted that water cannot readily soak into the ground.

Instead, stormwater runoff, vehicle tires, snow removal and other disturbances carry sediment from unpaved driveways into the street storm drain system and eventually into Lake Tahoe. By paving a driveway, soil is stabilized, stormwater runoff can be appropriately directed for onsite infiltration, the surface can be plowed without disturbing soil and vehicular access can be limited to the paved surface.

With that in mind, it is the goal of the BMP Retrofit Partners to help property owners install the optimal Best Management Practices for their site. Minimizing the size of impervious areas and limiting the amount of disturbance, while allowing property owners to continue the historical use of their properties, are key management techniques employed by our Team. Let's be clear, our mission is BMP Retrofit, and the implementation deadlines are fast approaching.

In order to legally pave a compacted, bare soil surface, we first recommend that property owners follow the guidelines of their local jurisdiction. Most local jurisdictions want property owners to pave two off street parking spaces, or approximately 400 square feet. A paving permit and an encroachment permit are needed to legally pave a driveway. If this is the case, an over the counter permit can be obtained from the respective local jurisdiction.

However, in certain circumstances, paving the minimum allowable driveway dimensions does not fit in with the historical layout of the site. For instance, some older homes were built far from the road and require a longer driveway for access. Other homes have existed prior to TRPA's inception and have excessive amounts of compacted bare soil parking.

In an effort to move forward and to get BMPs on the ground, in certain cases, we are willing to write a BMP Retrofit Paving Permit to allow property owners to pave a "reasonably sized" compacted soil area that is in excess of the minimum allowable driveway per their respective jurisdiction; only if all other BMPs are installed along with the paving. Be clear that we are not legally verifying the coverage for the property owner. We are simply allowing them to BMP their compacted bare soil parking area, and direct the runoff for onsite infiltration.

A "reasonably sized" area does not mean paving all compacted bare soil, but rather means allowing the property owner to pave a usable area that appropriately fits their site. For instance, if a property as a two car garage set back 30 feet from the road with a dirt driveway in front of it, we will allow the property owner to pave an area the width of their garage out to the street. Or, if a house is set back 60 feet from the road and the property has a compacted bare soil driveway that is 60 feet long and 15 feet wide, we will allow them to pave a driveway that is 60 feet long and 10 feet wide. Again, we are giving them a reasonable parking area to access and use their property; we are not allowing them to pave all existing compacted bare soil. All areas that are not paved shall be blocked off with appropriate parking barriers and shall be restored to natural conditions.

The primary reason for this is to get BMPs on the ground rather than tying property owners up by having them go through a Site Assessment process prior to paving. However, while that process can be costly and time consuming, in the right circumstance, it may be the correct path for certain property owners to take. It is our job to be public educators, and we need to be clear about the options a property owner has.

If a property owner has a large amount of compacted bare soil that potentially is legally existing (established and used prior to 1972), but has not been verified yet, it is our duty to explain to them that if they pave their driveway to a certain allowable square footage and block access and restore all other bare areas, they potentially will lose coverage credit that they once had. Instead, give them the option of getting a Site Assessment to verify legally existing soft coverage prior to paving, or tell them that they can go through the BMP Retrofit process; give them a reasonably sized paved surface with proper BMPs and block and revegetated all other disturbed areas.