

TAHOE REGIONAL PLANNING AGENCY RESIDENTIAL
ALLOCATION SYSTEM UPDATE:
A STUDY OF COLLABORATION

A Thesis

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by

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Abstract
of
TAHOE REGIONAL PLANNING AGENCY
RESIDENTIAL ALLOCATION SYSTEM UPDATE:
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The Tahoe Regional Planning Agency (TRPA) is updating a component of its growth management program, the residential allocation system. TRPA wanted the update to be fair and representative of current interests in the Lake Tahoe Basin. I worked with TRPA staff to design and conduct a collaborative process. The process included identifying and engaging the relevant stakeholders, conducting individual stakeholder interviews about the residential allocation system, and leading a focus group with all of the stakeholders. Through this process I determined that collaboration was a feasible and desirable way to update the residential allocation system. The stakeholders were able to reach consensus on: 1) the TRPA should continue to link residential allocation distribution to environmental performance, 2) the TRPA should retain the Permit Monitoring and Compliance performance measure, 3) the TRPA should explore how to incorporate Total Maximum Daily Load, or fine sediment discharge, criterion as a performance measure, and 4) the TRPA should defer allocation acknowledgement deadlines to the jurisdictions. Unlike more traditional growth management efforts, the

stakeholders in this process continue to place emphasis on environmental improvement. TRPA's desire to use collaboration as a decision-making tool and its steadfast emphasis on environmental improvement indicates comprehensive and modern land-use planning. As a decision-making tool, collaboration presents certain difficulties. However, collaboration is also an effective way to deliberate on problems that affect many. Growth management in the Lake Tahoe Basin is one such problem, and collaboration proved successful. Consequently, the TRPA will continue collaboration on this update and more land-use decisions in the future.

_____, Committee Chair
Mary K. Kirlin, D.P.A.

Date

DEDICATION

A wedding, the purchase of a house, and five surgeries have accompanied me through graduate school. Throughout all of these blessings challenges that just happen in life, my husband has shown me unwavering support. He has given me the kind of support that no one has the right to expect yet everyone should be so lucky to receive. From ensuring I had a reliable car in which to make a sometimes horrendous commute to cleaning the house when I was too busy, there is nothing he wouldn't do to make my life a little easier. I appreciate that beyond what words can express. Thank you so much Jason, for giving me the opportunity to get my Master's, of which I am incredibly proud. I love you!

My parents gave me a room and, more importantly, love and encouragement. The room was a place to crash in Sacramento when the commute was too daunting. The love and support came in the form of stress-busting workouts with my dad, special coffees from my mom, and lively discussions with them both about what I learned at school as they are perpetual students at heart. I am so thankful that I had a home away from home with mom and dad throughout graduate school. I love you both so much.

Lastly, I have to thank my dog, Mikey. Every time I sat at the computer for just a bit too long, Mikey's face would find its way to my lap, reminding me to look up and smell the roses. In Mikey's world, dog walks and play time do not wait for policy papers or regression analyses. Every time I left the computer to spend some time with Mikey, I

was always grateful to him for reminding me what really matters in life. Thanks buddy, I love you.

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Chapter 1

INTRODUCTION

Land use is always controversial because of the implications for both the environment and the economy. Managing land use requires the ultimate balancing act between the environment and the economy and the plethora of stakeholders that are involved. The Tahoe Regional Planning Agency (TRPA) serves as the regulatory agency for the counties and cities that sit in the Tahoe basin. The TRPA writes the rules for land use including the Residential Allocation System that dictates how many single family homes private property owners can build in each jurisdiction in a given year. Putting forth a policy that the affected stakeholders can accept and still garner TRPA Governing Board approval is a prime example of the challenges that a regional planning agency such as the TRPA face.

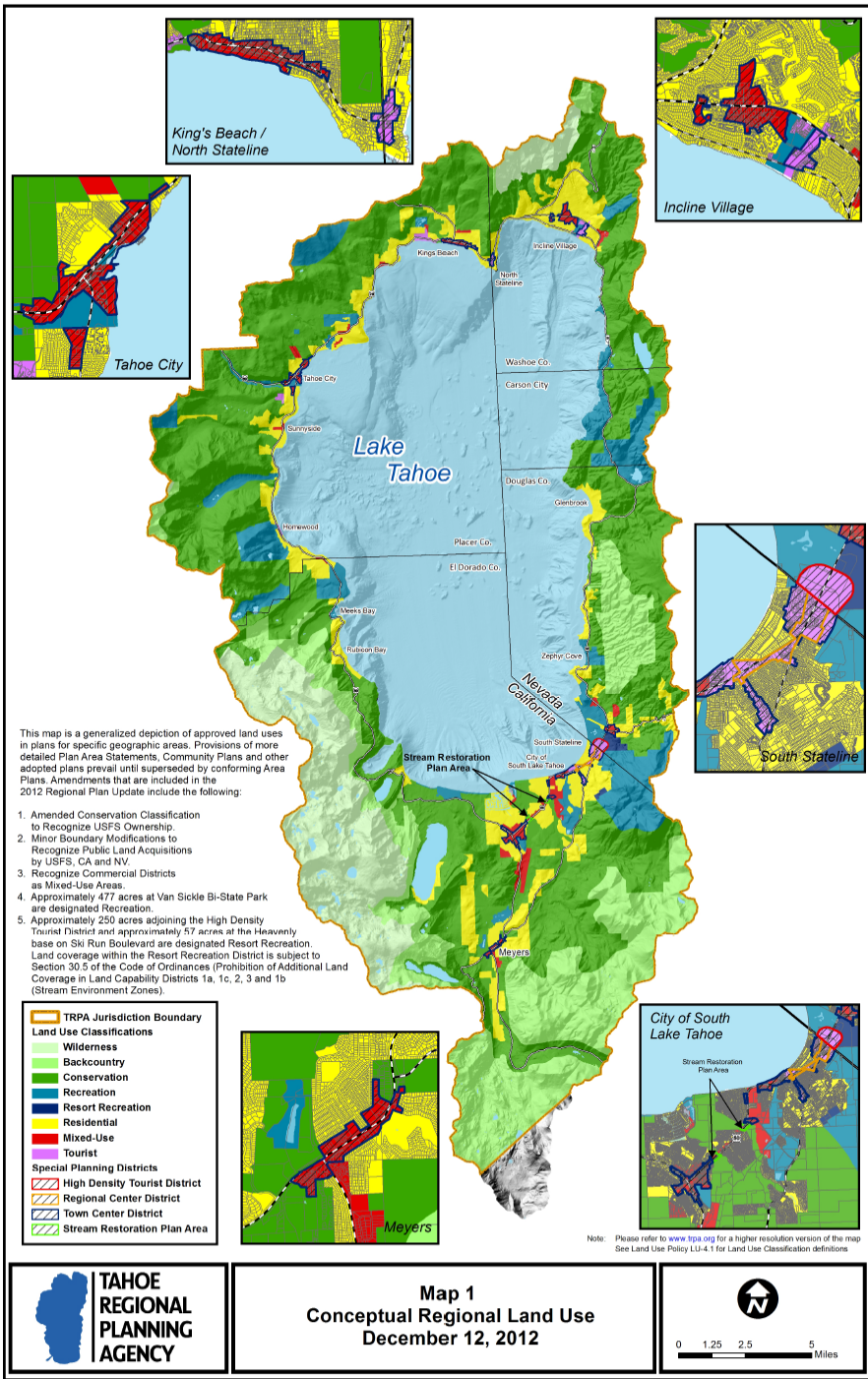
In 2012, the TRPA Governing Board approved changes that would update the Regional Plan, the policy document that guides land use in the Lake Tahoe Basin. This update presented many problems and took years to achieve. The Governing Board recommended that TRPA staff place several issues on a list of items for future consideration, not to be a part of the new Regional Plan. The Governing Board hoped that by tabling this and some other controversial issues, they could expedite the Regional Plan approval (TRPA Regional Plan, Attachment 5, 2012). One of those issues was a growth control mechanism, the residential allocation system. However, with a lean staff and several other priority projects to receive attention in 2013, TRPA implemented a temporary residential allocation system to release residential building permits for 2013

and possibly 2014. TRPA implemented a temporary program hoping to buy some time until staff resources were available to dedicate to updating the residential allocation system. When I approached TRPA staff as a graduate student looking for a research opportunity, they asked if I would be willing to recommend updates to the residential allocation system by facilitating a collaborative process among the relevant stakeholders to garner ideas as to what the update should look like. Hence, in this thesis I will review theories of growth management and collaborative governance and use them to develop a collaborative process with the ultimate goal of producing consensus-based policy for the Governing Board's consideration. The following sections will explain the events leading up to the Board directive to revise the residential allocation system and the range of issues that surround residential allocations.

Historical Decrease in Available Residential Allocations

The TRPA Governing Board directed TRPA staff to update the system by which it controls residential building at the May 22, 2013 Governing Board meeting. This directive means that the current system that allocates residential building permits must be revised by TRPA staff according to the current building environment and in accordance with the requirements in the Regional Plan Update of 2012. The current building inventory is the number of vacant, buildable parcels throughout each of the five jurisdictions. The five jurisdictions are Douglas County, El Dorado County, Placer County, Washoe County, and the City of South Lake Tahoe. While Carson City has land within TRPA boundaries, it is not developable and is therefore not part of this thesis.

Figure 1: Map 1 below depicts the jurisdiction boundaries and the land use designations within each jurisdiction (TRPA Code of Ordinances, 2012).



Given the total buildable land that is available for single family dwellings in the Tahoe Basin (depicted in yellow areas on Map 1), a total of 130 allocations a year are available for residential purposes. If property owners claim all 130 allocations every year, then the land within the Basin that TRPA allotted for residential building will be built-out in 20 years. The distribution of the 130 allocations annual allocations are subject to a performance review system where each jurisdiction has a base number, a maximum number, and a minimum number of allocations that it can receive based on a set of criteria. Table 1.1 shows the base, maximum, and minimum allocations per jurisdiction.

Table 1.1 Residential Allocations By Jurisdiction			
Jurisdiction	Minimum Allocation with Deductions	Base Allocation	Maximum Allocation with Enhancements
Douglas County	2	5	9
El Dorado County	13	25	49
Placer County	8	15	29
Washoe County	6	11	22
City of South Lake Tahoe	5	10	21
Total	34	66	130

The TRPA Governing Board directed TRPA staff to revisit this criteria and the residential allocation system to see if there is a better way to distribute the allocations. Opening up the residential allocation system to an update has left each jurisdiction in competition with one another to receive its fair share. Public agencies, local officials, contractors, environmental groups, and property owners want a say in how TRPA will update this system. In order to understand the difficulties that will affect the update of the residential allocation system, I will describe TRPA's origins.

A Brief History of the TRPA and Environmental Collaboration in Lake Tahoe

A century ago, conservationists began to see the degradation of the Lake as a result of overdevelopment and commercial logging and feared that it was too late to reverse the damage. In spite of a lack of responsiveness from Washington D.C., conservationists continued to lobby for protections for the sensitive environment and eventually gained support from those residing in the immediate areas of California and Nevada as well as the nation. Lake Tahoe became a national symbol of natural beauty and conservationists made efforts to protect its pristine environment after a period of rapid and threatening growth in the fifties and sixties. Lake Tahoe is shared between two states and the governors and lawmakers from these states came together to initiate an agreement to protect the environmental integrity of the Lake. In 1969, Congress ratified this agreement with the creation of the Tahoe Regional Planning Agency (TRPA, 2013). TRPA was the first bi-state regional environmental planning agency in the country and the agreement between the two states serves as a benchmark for similar environmental concerns requiring the recognition and cooperation of many stakeholders (TRPA, 2012). The creation of the TRPA was a collaborative effort and the evolution of the agency to respond to the economic and sustainability concerns intertwined with the environmental mission will continue to require collaboration. Revising the residential allocation system means putting forth a proposal to the Governing Board for approval. However, TRPA thought it best to gather input from a multitude of stakeholders with varying interests and put forth a proposal that reflects the stakeholders' common interests. The TRPA proposed undertaking a collaborative approach to revising the system. With my academic experience in collaborative governance and my involvement in the project, the

opportunity arose to use my thesis to help in a real situation. The following section will explain the motivation for revising the system and detail the background information important to understanding the history behind and the contention surrounding the residential allocation system.

Historical Background: Build Out in the Lake Tahoe Basin

The Lake Tahoe Basin is a mixture of privately and publicly owned land that cannot accommodate sprawl for both environmental and geographical reasons. The TRPA Environmental Impact Study and the Regional Plan mandate that TRPA uphold environmental thresholds, such as air and water quality. Sprawling development would hinder the TRPA from attaining those thresholds. Additionally, land within and surrounding the Basin is not just privately owned, but owned by agencies such as the United States Forest Service and the Bureau of Land Management. The complex mixture of publicly and privately owned land in and surrounding the Basin contributes to the urban boundary line, which delineates and limits growth boundaries. According to TRPA, it is very unlikely that these boundaries will ever change. Sprawling growth in the Lake Tahoe Basin was a problem, until the TRPA stopped sprawl in 1969. Then in 1987, the TRPA adopted its Regional Plan, which attempted to meter out allocations over the next 20 years among the jurisdictions with a total of 300 a year made available. While this method helped curb rampant building, environmental guidelines were not part of the initial growth management system (Fine Conaboy 2011). Each jurisdiction got a percentage of the 300 available allocations every year and this percentage remained the same for the next five years. As a part of the growth management system, residential

building allocations were finite. Each year TRPA gave specific amounts of allocations to the jurisdictions every year and TRPA re-evaluated this distribution rate only once every five years (TRPA Governing Board Packet 1992). For example, between 1992 and 1996, TRPA released 1,500 additional residential units to the five jurisdictions. While each of the jurisdictions did not receive equal amounts of allocations, each jurisdiction did receive the same amount for the successive five years. TRPA based the number of allocations released to each jurisdiction on a series of evaluation criteria, such as the number of vacant, buildable parcels within a particular jurisdiction (TRPA Governing Board Packet 1992). Additionally, TRPA re-evaluated the distribution system every five years. While builders and local officials expected TRPA to distribute new numbers in 1997, a new program emerged, funded by federal, state, and local sources. In 1997, TRPA established the Environmental Improvement Program presenting a unique opportunity for the TRPA to use Environmental Improvement Projects (EIPs) as an incentive for receiving residential building allocations.

Upon the expiration of the existing five-year residential allocation distribution schedule in 1996, the TRPA looked toward the future. As many TRPA program evaluations were under way, the TRPA chose to extend the existing allocation releases into the following years (TRPA Governing Board Packet 1996). Then in 2001, the TRPA Threshold Evaluation indicated significant environmental shortfalls within the basin, otherwise termed a “lack of attainment” (TRPA Governing Board Packet 2002). A lack of attainment means that TRPA was not meeting the minimum environmental standards in nine threshold categories: air quality, water quality, soil conservation, vegetation

preservation, fisheries, wildlife, scenic quality, noise, and recreation (TRPA Code Ordinances 2012). TRPA staff members and those with an interest in how allocations are distributed saw an opportunity to use building allocations to encourage local jurisdictions to undertake programs and policies that could help achieve attainment of these environmental thresholds. At the time, the TRPA Regional Plan required that the pace of building new residential homes not exceed environmental improvements. As a result, linkages between new development and water quality standards in particular began in the form of an incentive program that would use Environmental Improvement Projects. Additionally, TRPA would incorporate other incentives related to improving the environmental thresholds. Under this concept, TRPA would evaluate each jurisdiction on four categories that linked new residential development to environmental improvements. The better each jurisdiction performed in environmental improvements, the more residential building allocations it would receive. TRPA created a range of available allocations within which this performance system would operate and went from a minimum of 78 to a possible maximum of 294 residential building allocations that the TRPA would distribute. TRPA assigned each jurisdiction a base amount of allocations and then awarded more or deducted from the base amount, depending on TRPA's annual performance review of each jurisdiction. The proposed performance criteria had four main elements:

- 1) Permit Monitoring and Compliance: Each jurisdiction enforces the overarching TRPA Code of Ordinances and TRPA evaluates how well the

jurisdictions enforce the rules subject to the Memorandum of Understanding (TRPA Governing Board Packet 2002).

- 2) EIP Implementation: Environmental Improvement Projects are combined efforts of federal, local, state, and private agencies (Fine Conaboy 2011). TRPA wanted to encourage each jurisdiction to pursue EIP projects, specifically water and air quality projects. As a result, TRPA awards or deducts allocations based on EIP work in progress or completion phase (TRPA Governing Board Packet 2002).
- 3) BMP Retrofit Program: Private property owners are responsible for installing BMPs (best management practices) in order to manage storm water and snowmelt runoff on their property. TRPA encouraged jurisdictions to promote BMP retrofit implementation through residential building allocations (TRPA Governing Board Packet 2002).
- 4) Increase Transit Services: TRPA evaluates each jurisdiction's Transit Level of Service (TLOS), which is defined by nine criteria (Appendix A). TRPA awarded or deducted residential building allocations based on how well the jurisdiction achieved these TLOS levels (TRPA Governing Board Packet 2002).

The TRPA had to create a Performance Review Committee (PRC) to handle the annual performance review of each of the jurisdictions. While the PRC has placed an additional cost of time and resources on TRPA, nearly twice the annual commitments of some TRPA departments, it has served as an important tool in establishing monitoring systems

for all of jurisdictions under TRPA authority. However, TRPA wanted to revise its Regional Plan in 2007. This deadline is important because the Regional Plan Update would re-evaluate the vacant, buildable parcels in the Basin and would likely change the amount of allocations that would be available annually for the next 20 years.

The TRPA Regional Plan is the equivalent of any other jurisdiction's General Plan and serves as a template for a jurisdiction's future development (Fulton and Shigley 2012). While there is no law that regulates how often the Regional Plan gets updated, twenty years is typical, or as the policies set forth in the plan become outdated or irrelevant. In TRPA's case, the Regional Plan Update was to happen in 2007, twenty years after the 1987 Regional Plan. In 2006, just a year away from a new Regional Plan, the TRPA staff recommended that the Governing Board extend existing residential allocation distribution rates that were set to expire December 31, 2006 until the Board approved the new Regional Plan. This recommendation came from staff's desire to avoid unnecessary disruption to the local communities. There was no need to implement an interim program only to change it when the new Regional Plan came into effect (TRPA Governing Board Packet 2006). The decision to extend the current distributions for the allocations under the 1987 Regional Plan until the Governing Board approved a new Regional Plan would likely exhaust the current pool. Additional allocations beyond what was left from the 1987 Regional Plan would not be made available by TRPA until they made development determinations under the new Regional Plan. The Regional Plan did not get final approval by the Governing Board until December 2012, five years after the expiration of the 1987 Regional Plan. While five years with only an interim program to

distribute the remaining, unused allocations available under the 1987 Regional Plan may seem insufficient, the economic downturn diminished the demand for building allocations in the region. Hence, the allocations leftover from the 1987 Regional Plan remained sufficient until the Regional Plan Update was complete in 2012, in time for an economic upswing.

Demand for Change: Motivations Behind the TRPA Directive

Lake Tahoe's economy relies on tourism, and tourism revenue is on the rise throughout the Basin (Anderson 2013). The increase in tourism revenue is good news for the building industry. Local architects, builders, and agency officials (Knowles 2013) who all see the demand for building allocations exceeding the availability among the four counties and the City of South Lake Tahoe confirm this assertion. As a result, there are waiting lists for residential building allocations. For example, there were 13 residential building allocations released by the TRPA to the City of South Lake Tahoe in 2013 and the waiting list to receive an allocation exceeds 100 (City of South Lake Tahoe 2013). Additional residential building allocations are available, but the number released to each jurisdiction within the basin has steadily declined because of reassessment every five years of the vacant and buildable parcels left within the Basin and a complicated set of performance measures used to reward allocations. As more property owners build homes, there are fewer available and buildable parcels. Additionally, each jurisdiction does not automatically receive its maximum number of allocations. The recent approval of the TRPA Regional Plan has also redefined and recalculated the total build out for the Tahoe Basin, further contributing to the decreased

number of residential building allocations released (Fine Conaboy 2011). Build out will happen eventually in the Tahoe Basin because there are a finite number of areas zoned for residential building in the Basin and there are a finite number of buildable parcels within these areas. As a result, the TRPA through the Regional Plan continually evaluates the buildable inventory and makes a certain number of allocations available every year. TRPA staff, the Governing Board, and local officials monitor environmental impacts and economic impacts by pacing out residential development. Because the number of residential parcels available for new building is decreasing, fewer total allocations are available every year. Where the TRPA used to distribute 300 residential building allocations every year, the new Regional Plan only allows for the distribution of 130 allocations among all of the jurisdictions within the basin. Every year, some allocations go unused, either because the jurisdictions did not earn their maximum amount allotted in the Performance Review System or because demand was low. When demand for allocations is high and maximum allocation release has not been achieved because of paltry performance the problems with the existing Performance Review System surface. As a result, local agency officials, builders, realtors, and architects have placed pressure on the TRPA to revisit the performance measurement system that TRPA uses to determine distribution in order to reflect current demand (Knowles 2013). Tables 1.2 and 1.3 depict the historical change in released allocations from the 1987 Regional Plan through the current Regional Plan and interim distribution system.

Table 1.2

Table 1.2 Historical Residential Allocation 1987-2013			
Jurisdiction	Allocations Prior to Performance Review System Initiated	Allocations After Performance Review System Initiated	Allocations Based on Regional Plan Update-2012
El Dorado County	92	111	32
Douglas County	23	21	6
Placer County	88	66	53
Washoe County	59	49	42
City of South Lake Tahoe	38	47	13
Total	300	294	146

Table 1.3

Table 1.3 Interim Allocations Released for 2013			
Jurisdiction	Unused Allocations 2009 - Current	2013 Approved Allocations	Total
Douglas County	0	6	6
El Dorado County	0	32	32
Placer County	34	19	53
Washoe County	26	16	42
City of South Lake Tahoe	0	13	13
Total	60	86	146

Table 1.4

Table 1.4 Additional Allocations Released-May 2013		
Jurisdiction	Add'l Allocations Given to Jurisdiction	Total Allocations Released 2013
Douglas County	2	8
El Dorado County	13	45
Placer County	7	60
Washoe County	6	48
City of South Lake Tahoe	5	18
Total	33	179

The TRPA now finds itself in a situation where the demand for allocations exceeds the supply. There are only 20 years left of allocations. Jurisdictions want more allocations than they get every year. The Governing Board has directed TRPA staff to change the residential allocation system. Changing the allocation system means assessing how TRPA distributes the allocations among the jurisdictions annually, analyzing the linkage that environmental performance measures have to residential building, understanding the amount of direct control that the local jurisdictions exercise over the performance measures and exploring new performance measures. Because buildable land is finite in the Basin, each jurisdiction wants to ensure it receives its “fair share” of allocations. Furthermore, each jurisdiction wants to make sure it has a fair shot at complying with any performance measures. The jurisdictions feel the current system is unfair and inequitable. The built environment must exist within these parameters because it is highly unlikely that the TRPA will change the urban boundary in the Basin and more

land will be freed up for future building. All of these conditions will play a role in how the TRPA updates the allocation system. In addition to these parameters, the residential allocation system operates within the context of growth management. Traditionally, growth management dictates the timing and sequencing of development. New ideas about growth management address location and type of development in conjunction with sustainability. Lastly, upon the desire of TRPA staff, collaboration will dictate the process by which TRPA updates the system.

Chapter 2

REVIEW OF THE LITERATURE

GROWTH MANAGEMENT AND COLLABORATION

The growth control concept emerged out of a period of rampant and sometimes unsustainable growth in the United States. Advocacy groups throughout the country began expressing concern over the environmental dangers of rampant growth as early as the 1950s (Fulton & Shigley 2012) but strengthened and took hold in the 1970s (Jackson 1985). Lawmakers and citizens alike wanted to ensure that quality services kept pace with development and population growth. Quality of development eventually became a contributor to growth management as well. Today, growth management aims at maintaining economic, environmental, and social sustainability. A transition is occurring between the traditional mechanisms for growth control and new techniques for promoting sustainability. This transition emphasizes regionalism and smart growth theories and practices. The current allocation system will undergo change, as directed by the TRPA Governing Board and the Regional Plan's directives for future priority projects. Given that the allocation system is a growth management tool, existing growth management literature will help frame the theory of growth management and offer comparisons of growth management systems. Collaborative governance literature is also a useful theoretical framework to discuss, as the TRPA prefers the allocation update to reflect the interests of the stakeholders that the update will affect. In this section, I explore the broader theories that dictate growth management, and define collaboration as a tool for addressing multiple stakeholder interests surrounding a single issue.

Growth Management: Theory and Practice in the Literature

Growth management regulates the timing and sequencing of development within a community (Fulton and Shigley 2012). Without growth management, the impacts of development can be hard to plan for and monitor. Timing and sequencing of development ensure that the needed infrastructure is in place to handle future development, ensures that the zoning within developed and undeveloped areas is consistent with community needs and goals, establishes a balance among various land uses, and upholds the character embodied by a community (Fagin 1955; LeGates 1991). Underlying good growth management technique is good planning. Charles Siemon characterized good planning as being comprehensive, current, and meaningful as well as clearly and simply portraying goals, policies, and objectives used to guide singular decisions (1997). Ultimately, growth management policies of today aim at maintaining economic, environmental, and social sustainability by guiding the location, quality, and timing of development (D.N. Bengston *et. al.* 2003; Porter 1997). The following sections on growth management will look at the prevalent growth management techniques as discussed in the literature, the criticisms and problems surrounding growth management, and future of growth management.

Growth Management Techniques: Shaping Our Communities

Many California communities use growth management techniques, usually in response to population growth and a lack of local infrastructure. There are six broad categories of growth management (Fulton and Shigley 2012):

- 1) Housing and population caps limit the number of permits given out over a certain timeframe.
- 2) Commercial and industrial caps are typically for commercial development and limit the square footage of commercial or industrial buildings a jurisdiction will permit over a certain timeframe.
- 3) Urban growth boundaries aim at containing growth to within a certain geographic area.
- 4) Establishment the adequate level of service for an undeveloped area ensures that the proper infrastructure is in place prior to development.
- 5) Upzoning and downzoning use zoning, the most common land use regulation tool, to alter land uses in particular areas to reflect changes in growth patterns.
- 6) General controls place a community's growth management goals within the General Plan and can include a variety of methods.

The existing literature supports these six categories as predominant growth management techniques. Additional notable methods include building moratoria and smart growth controls (Bengston *et al.* 2004; Jackson 2005; LeGates 1991; and Starkweather *et al.* 2004) which may be captured in the general controls category. Of these six categories, housing and population caps and general control methods are the most prevalent and applicable to the TRPA Residential Allocation Update.

Housing and population caps rely heavily on the historical foundations of timing and sequencing of development. Regulating the timing and sequence of development occurs in a multitude of ways. Henry Fagin drew on the initial problems of out-of-

control growth in the United States in the first half of the 20th century and advocated that growth ought to be managed through the types of development, promotion of the public interest through development, and a community's capacity to develop based on facilities and services (1955). Contemporary scholars of growth management have expanded these foundational ideas. Bengston *et. al.* delineated public policy instruments used to manage growth which include public ownership and management of land, regulation, and incentive-based techniques (2003). Richard LeGates identified and studied the practical applications of these public policy instruments for growth management in California's Bay Area. Morgan Hill, for example, adopted a growth management system that used regulation and incentives in order to control tempo. Morgan Hill set a population goal to meter yearly development rates and then established a point system to determine which projects got permits to build. This approach encouraged builders to put forth projects that were of the quality and character reflective of community desires (1991). The Tahoe Regional Planning Agency instituted a building moratorium where they stopped all development for 32 months in order to allow the TRPA to slow residential growth and establish more stringent growth control measures (Jackson 2005). While there are many methods of controlling growth, there are several philosophical and legal problems with growth management.

Growth Management Problems and Issues

Proponents of growth management argue that it promotes environmental, economic, and social sustainability. But many opponents of growth management argue that it is discriminatory and exclusionary by restricting the housing supply and therefore

adversely affecting the public welfare. Additionally, if growth management tools are too restrictive, then a regulatory taking occurs and legal challenges arise for the jurisdiction enforcing growth management. These two problems encapsulate the difficulties surrounding growth management.

When assessing the legality of growth management measures, California courts evaluate growth management based on three questions. The first question relates to the effect and the duration of the growth control. The second addresses the competing interests for the growth control such as environmental and economic interests. The third is whether the growth control fairly considers the competing interests. What is implied by these parameters is that the “public welfare” be considered when evaluating the effect, the competing interests, and equity of any growth management system (Fulton and Shigley 2012). The existing literature that opposes growth management contends that in spite of these evaluations, growth controls are unfair because they artificially inflate property values, force development to the fringes of an urban boundary, diminish the regional housing supply, and discriminate against low- and moderate-income housing residents (Fulton and Shigley 2012; Jackson 2005). In addition to the public welfare consideration, the legal issue of “takings” is also prominent in the literature.

Another component in much of the growth management literature is the “taking issue” (Siemon, 1997). A regulatory taking happens when authorities to such a degree regulate private property that the government power of eminent domain occurs without actually stripping the property’s owner of title to the property (Fulton & Shigley, 2012)). The Fifth Amendment to the United States Constitution states “Nor shall private property

be taken for public use, without just compensation.” (Groen and Stephens, 1993). Land use restrictions that unfairly affect landowner’s interests, may be considered unconstitutional by courts. Some growth management techniques fall into this category. The literature discussing property rights advocacy states the case on which the Fifth Amendment was based should be interpreted literally and just compensation should be awarded to affected property owners. Inconsistencies exist in the literature regarding how and to what extent regulation unfairly affects landowner’s interests furthering the legal debate surrounding regulatory takings. (Fulton and Shigley 2012; Groen and Stephens 1993; Siemon 1997).

Growth Management: Looking Toward the Future

Literature suggests that growth management research and application is headed in a new direction, one that goes beyond timing and sequencing. Regionalism, smart growth, and redevelopment have a strong presence in current growth management literature. Current land-use experts generally accept regionalism, smart growth, and redevelopment as the answer to rampant and unsustainable sprawl (Dunham-Jones and Williamson 2011; Freilich and Peshoff 1997; Fulton and Shigley 2012; Jackson 2005). Regional growth control exists in some areas, but is gaining attention because of increased interconnectivity. Because the creation and implementation of growth controls in one jurisdiction can have spillover effects into other jurisdictions, many experts in the field (Freilich and Peshoff 1997; Jackson 2005) advocate a regional approach. Regional growth control measures ideally stem from a regional board comprised of representatives from the cities, counties, suburbs, and fringe communities within a region. A regional

board should act as a collaborative intergovernmental entity that sets the standards for growth control throughout a region to address spillover effects (Jackson 2005).

Another popular movement in growth management is that of smart growth. Since it has become apparent that California can no longer accommodate rampant development, smart growth is particularly important in bringing older neighborhoods and suburbs into the twenty-first century (Dunham-Jones and Williamson 2011; and Fulton and Shigley 2012). Smart growth emphasizes using the existing built environment to accommodate an ever-increasing population and economic growth differently (Fulton and Shigley 2012). The group Smart Growth Network (2012) emphasizes ten principles for smart growth:

1. Mix land uses
2. Take advantage of compact building design
3. Create a range of housing opportunities and choices
4. Create walkable neighborhoods
5. Foster distinctive, attractive communities with a strong sense of place
6. Preserve open space, farmland, natural beauty, and critical environmental areas
7. Strengthen and direct development towards existing communities
8. Provide a variety of transportation choices
9. Make development decisions predictable, fair, and cost effective
10. Encourage community and stakeholder collaboration in development decisions

Older neighborhoods, housing prices, and demographics are the driving factors in the smart growth movement (Fulton and Shigley 2012). Examples of smart growth done

well that reflect smart growth principles include projects from all over the United States. For example, jurisdictions have established public-private partnerships to make available low-interest, fixed-rate home equity loans to fund the modernization of older homes. Another idea is to change zoning to allow for the conversion of accessory apartments to primary dwellings in order to increase density (Dunham-Jones and Williamson, 2011). The examples are plentiful. Instead of monitoring the tempo of new development, these smart growth techniques encourage the use of the built environment in order to sustain future generations.

Growth management has evolved as response to sprawl in the 1970s to a theory that encapsulates the complexities of our ever-growing population, environmental protection, economic stability, and interconnectivity. Many communities support regionalism and smart growth theories and practices as ways to deal with these complexities. The TRPA is a regional regulatory agency that embraces a regional approach to land use. While communities look toward regional approaches out of necessity, regional approaches to land use present challenges. Regionalism means involving many to make a decision on an issue that will have widespread impacts. This transition lends itself toward a collaborative method of governance and the next category of literature to review for this thesis.

Collaboration and Land Use: Theory and Practice in the Literature

Collaboration as a tool to solve complex problems is gaining momentum in the United States, especially in the field of land use and natural resources (Gerlak and Heikkila 2005; Purdy 2012). The collaborative process is one in which multiple parties

who have different interests in an issue explore solutions that promote a shared interest in the issue. This type of process can include stakeholder roundtables, dispute resolution processes, community advisory councils, and regulatory negotiations. The participants, or stakeholders, might include businesses, community members, government, and non-profits (Gray 1989; Purdy 2012). It is common that our public institutions are just one part of an increasingly fragmented, complex, yet interconnected system (Innes and Booher 2010). Interdependence among stakeholders make collaboration one acceptable way to address complex situations among many different interests. In this section of the literature review I will address the theoretical foundations and accepted definitions of collaboration, address collaboration as a tool specifically for land use, and finally address the shortcomings of using collaborative governance as a way to decide public policy.

Collaborative Governance: A Theoretical Framework

Collaborative governance is a process. It is not effective to rigidly define collaborative governance because it is non-linear, interdependent, and reciprocal (Innes and Booher 2010; and Straus 2002). The following paragraphs will discuss the variables necessary for collaboration to take place, discuss that factors that are crucial for successful collaboration, and lastly address the shortcomings of using a collaborative process to make decisions.

There are necessary variables in order to initiate a collaborative process. Once the process starts, there are a different set of variables necessary to the success of a collaborative effort. This section will address the former. The broad commonalities that need to be present in order for a collaborative process to begin are initiation, relevant

stakeholder participation, a formal organization of meetings and negotiations, and the common goal of consensus. Public agencies or institutions typically are the initiators of a collaborative process (Ansell and Gash 2007). While much of the literature confirms this finding (Ansell and Gash 2007; Cheng 2006; Leach 2006; Purdy 2012), other researchers in the field point to other parties such as advocacy groups or private sector groups (Innes and Booher 2010; and Straus 2002) as initiating a collaborative process; often so with the intent of engaging public agencies or institutions in the process (Ansell and Gash 2007). If a public agency or institution initiates a collaborative process in an effort to make decisions regarding public goods, the public agencies and institutions are ultimately accountable for the provision of those public goods. Undertaking a collaborative process to aid in making decisions that affect the public lend transparency to the final decision (Ansell and Gash 2007).

Upon initiation of the collaborative process, a willingness among relevant stakeholders to engage in the process is important. The leader of a collaborative effort can use stakeholder surveys or focus groups to determine if the stakeholders have the interest, time, and resources to participate in a collaborative process (Ansell and Gash 2007). Innes and Booher supported this condition for collaboration and call it a willingness to engage in “authentic dialogue” (2010). The research emphasizes that although stakeholders may have the desire to engage in an authentic collaborative process, an imbalance of resources or status among stakeholders can have a negative effect on the initiation of a collaborative process. For example, if imbalances of power exist among stakeholders, exclusion of relevant stakeholders by more powerful

stakeholders can lead to a situation where only the stakeholders with power and status can participate. Straus enunciated this principle when he depicts the power of collaboration comes from inclusion, and not exclusion (2002). The concept of inclusion is generally accepted as an essential starting point for any collaborative process (Ansell and Gash 2007; Innes and Booher 2010; Innes and Gruber 2005; Leach 2007; and Straus 2002). However, subtle differences exist within the literature as to what constitutes inclusion. For example, while Ansell and Gash believed that the leaders of a collaborative effort should seek out all relevant stakeholders from the beginning of any process (2007), Innes and Booher found it acceptable to include a core group of stakeholders from the start and invite other stakeholders into the process as they become identified (2010). Innes and Gruber emphasized diversity among participants as another way to promote inclusiveness (2005). And Straus advocated that any leader of a collaborative process include these four types of stakeholders (2002, 40):

- 1) Those with the formal power to make a decision
- 2) Those with the power to block a decision
- 3) Those affected by a decision
- 4) Those with relevant information or expertise

Ultimately, exclusion will lead to a disintegration of the collaborative process itself. When all of the participants engage in “authentic dialogue” the participants ensure the sincerity and authenticity of their interests which is important to the collaborative governance process.

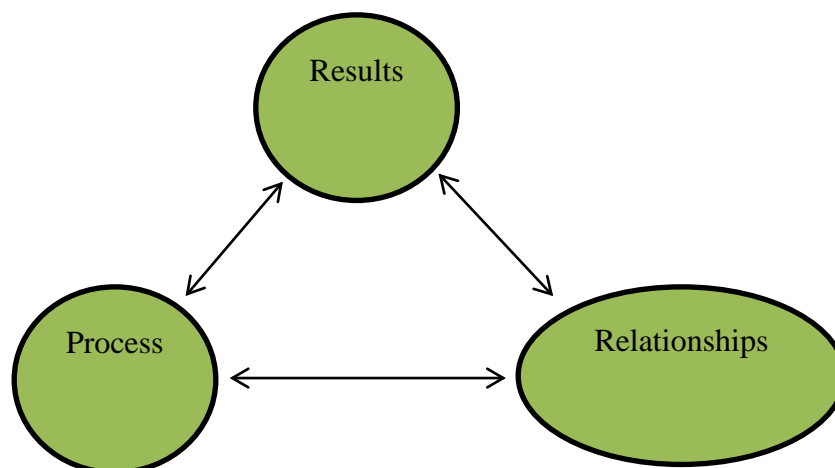
A third important component is the formal organization of collective meetings and negotiations. (Ansell and Gash 2007). At the outset, the feasibility of using collaboration to make decisions is assessed through individual stakeholder assessments and focus groups which enables those in charge, the facilitators, to determine whether collaboration is an appropriate decision-making process. (Susskind, McKearnen, and Thomas-Lamar 1999). Assessing feasibility is the first step in initiating collaboration. Once the facilitator has determined that collaboration will be effective, the facilitator must find a delicate balance between establishing a schedule of meetings and negotiations but also allowing the dynamic flow of the reciprocal collaborative process. The last variable essential in initiating a collaborative process is the pursuance of consensus among all of the stakeholders (Ansell and Gash 2007). However, it is also important for stakeholders to understand that decision-making through collaboration is an arduous and time-consuming process and instances occur where consensus does not happen. Under such circumstances, participants must resort to a traditional win-lose decision-making model (Straus 2002). Beyond these variables that are necessary in initiating a collaborative process, there are necessary factors that are crucial for collaboration to be successful.

The existing literature surrounding collaboration generally identifies creating a shared understanding about the issue, the use of facilitative leadership, and the pursuit of principled negotiations as crucial factors in successful collaboration (Fisher, Ury, & Patton 1991; Innes & Booher, 2010; and Straus 2002). These factors are directly related to the process of collaboration and are separate from the conditions that are necessary for

beginning a collaborative process. The following paragraphs will summarize what the literature says about the importance of facilitative leadership, the necessity of fostering a shared understanding and how to create it, and what constitutes principled negotiations.

In order for the collaborative process to be effective, most scholars agree that the process needs a leader, or a facilitator. The literature is consistent in emphasizing the importance of a facilitator to organize the stakeholders and prompt them to engage with one another (Ansell and Gash 2007). But the role of the facilitator goes much deeper than simply being an organizer of the process. Innes and Booher defined collaborative leadership as being generative in that the leader creates a set of conditions that brings stakeholders together with the goal of learning about their common problems and then creating solutions that will foster mutual gains (2010). Straus pointed to the facilitator as being a manager of the process and the relationship among stakeholders, freeing up the stakeholders to focus on the results of the collaboration. As depicted in Figure 2.1, reciprocity exists between the process, the relationships, and the results (2002, 116).

Figure 2.1 The Three Dimensions of Success (Straus 2002)



Straus specifically defined the role of the facilitator as being a process guide, a tool giver, a neutral third party, and a process educator (2002, 117). The responsibility of the facilitator to navigate the link between the process and the stakeholder relationships means that the facilitator must be able to exert the appropriate level of influence and control over the process and the participants while at the same time empowering weaker stakeholders (Ansell and Gash 2007). This role validates what other researchers argue; a strong facilitator leads to empowerment of the process (Leach 2006). By incorporating a strong facilitator while negotiating, the participants can treat the process as a policy making tool and not merely an exercise in social behavior. If facilitative leadership exists, then the facilitator can guide the stakeholders through creating a common understanding of the problem they are tasked with addressing, and then embark upon the principled negotiations with the ultimate goal of reaching consensus on what will mutually benefit all involved.

Before the stakeholders can progress toward consensus in a collaborative process, a shared understanding of the problem *and* the mission must be achieved (Ansell and Gash 2007; Innes and Booher 2010; Innes and Gruber 2005). In their model for the collaborative process, Ansell and Gash defined a shared understanding as a clear mission, common problem definition, and identification of common values among all of the stakeholders (2007). How stakeholders can achieve shared understanding can be a complex part of the collaborative process. Innes and Booher argue that in order to achieve a shared understanding, stakeholders must engage in joint fact-finding (2010).

Joint fact-finding means experts gather data, produce analyses, and justify their conclusions with a rationale based on what they found during this process. By doing so, joint fact-finding eliminates false information and misdirected assumptions in order to create the shared understanding that is essential to a successful collaborative process. Once achieved, stakeholders can strive toward consensus with principled negotiations.

Principled negotiations, also called good faith negotiations, are essential to the collaborative process and the effort to gain consensus. Harvard Negotiation Project developed principled negotiation Project and Roger Fisher and William Ury brought principled negotiation to the mainstream in their book *Getting to Yes: Negotiating an Agreement Without Giving In* (1991). Principled negotiations are the cornerstone of the collaborative process. A facilitator can mold negotiations among stakeholders to reflect principled interests rather than hard or soft positions. In principled negotiations, interests conflict at some point in the process of seeking out mutual gains. When this conflict occurs, it is important to then focus on a fair standard on which results can be based and consensus reached. Principled negotiation follows four rules:

- 1) Separate the people from the problem
- 2) Focus on interests rather than positions
- 3) Generate alternative solutions before deciding on one solution
- 4) The final solution should be based on objective standards

By following these guidelines for principled negotiations, any consensus reached is more likely to reflect the common interests that the stakeholders share. Collaboration is a desirable way of deciding public policy because it includes all relevant stakeholders,

creates a shared understanding of the problem and the mission, and achieves (hopefully) consensus through good faith, principled negotiations. However, there are drawbacks to the collaborative process. Understanding these drawbacks will help facilitators, decision-makers, and stakeholders realize when collaboration may not be appropriate.

Shortcomings of the Collaborative Process

Collaboration as a process relies heavily on “human” components that are subjective, emotional, and fallible. As a result, collaboration can be tough. All of the foundations that collaboration stands upon also present weaknesses. For example, while collaboration strives to include all relevant stakeholders, equitable resources, representation, and commitment among the stakeholders may lead to disparities in relative power (Leach 2006; and Purdy 2012). The role of power in a collaborative process offers a unique perspective on the shortcomings of the collaborative process.

Conveners, participants, and researchers have very little research to rely upon that clarifies the role power plays in the collaborative process (Purdy 2012). However, understanding the sources of power in a collaborative process can clarify where the shortcomings lay. According to Purdy, the sources of power are authority, resources, and legitimacy. Authority is important in the initiation of a collaborative process. It is also important in persuading the relevant stakeholders to participate. However, initiators of a collaborative process can also mistakenly use authority to exclude stakeholders who may not have the authority themselves to ensure inclusion. Resources also present a potential imbalance of power. Purdy define resources as financial, people, technology, information, capability, and even culture. Inequalities among any of these resources

between stakeholders create the potential to influence other stakeholders. Discursive legitimacy describes stakeholders' ability to speak on behalf of the issue or constituency they are representing. Inequities occur when a stakeholder represents a low status group, or does not have the legitimacy to influence how information is presented. If discursive legitimacy varies among stakeholders, shared understandings will elude the collaborative process (Huxham and Vangen 2005; and Purdy 2012). Beyond power, Gerlak and Heikkila described numerous institutional and political obstacles as well. For example, conflicting agency goals and missions may make pursuing a common interest impossible. Legality differences often exist, especially considering that there are often public, private, and non-profit stakeholders involved in collaboration (2005). Lastly, collaboration depends on trust, transparency, and commitment, the "human" components mentioned earlier. Critics of collaboration are right to be wary in light of these potential disturbances to the complex collaborative process. The final portion of literature that I will review is collaboration and the role it has played in land use.

Land Use Policy: A Collaborative Future

Communities and decision-makers use collaborative processes to address land use and the multiple jurisdictions and stakeholders that land use decisions affect (Gerlack and Heikkila 2005). There are generally two kinds of collaborative land use policy. The first is a focus on regionalism and devising a system of governance that encompasses most issues and all relevant stakeholders (Innes, Vittorio, and Booher 2009; Jackson 2005). The second is engaging stakeholders regarding a single issue at a particular moment in time (Innes and Gruber 2005).

Large-scale, regional governance systems are complicated. They implement policies that typically affect large geographic areas with diverse populations and interests. These complexities are what make collaboration so important. The literature points to various methods by which collaboration is achieved in these complex regions. Gerlack and Heikkila examined four complex systems in which large, regional governance bodies enforced land use and natural resource policies through collaborative processes. These four systems include the Northwest Power and Conservation Council Fish and Wildlife Program, the Chesapeake Bay Program, the California Bay-Delta Authority, and the Everglades Restoration Plan. All of these governance bodies used public input, external agency consultation, state and federal representatives, elected and appointed officials, and several advisory and implementation committees within their governance structures to promote collaboration as a policy tool (2005). Of course, instituting a complex system of governance does not guarantee that collaboration will occur. Awareness of the context for and content of collaboration, as well as the potential shortcomings of the collaborative process is key in considering collaboration for decision-making

Chapter 3

METHODOLOGY

The update of the TRPA residential allocation system will affect people, organizations, and businesses. As the lead regulatory agency, TRPA's Governing Board is responsible for approving or rejecting any proposal for updating the residential allocation system. TRPA staff and I will propose an update to the Governing Board in January 2014. Because the update affects each of the local jurisdictions, the business community, and the environment, an update that reflects the interests of these stakeholders is the most desirable. Collaboration as a method for decision-making will allow me to assess the interests of the relevant stakeholders. The ultimate goal of using collaboration to make decisions is participating in interest-base negotiations to reach consensus. In order to work toward consensus on the most equitable way to update the residential allocation system, I will work with TRPA to develop a list of relevant stakeholders, I will invite these stakeholders to participate in an individual interview, and finally I will conduct a focus group with all of the stakeholders together. While the steps I outlined will not be a complete collaborative process, it will inform if and how collaboration should proceed.

Identifying Relevant Stakeholders

In initiating collaboration as a method to update the residential allocation system, my first step was to identify a list of relevant stakeholders. I created this list with the help of TRPA staff. Possible stakeholders included representatives who have some knowledge of TRPA and its updated Regional Plan and were from jurisdictions within

the Basin, business groups, and environmental groups or agencies. Consistent with the literature, the points TRPA staff and I considered in identifying relevant stakeholders were who would an update affect, who has the power to add legitimacy to the process, who has the power to block a decision, and who possesses technical expertise (Straus 2002).

Individual Interviews

After I finalized an initial list of relevant stakeholders, I invited these stakeholders to participate in individual interviews. I provided an informed consent to all of the stakeholders prior to conducting the interviews. In the individual interviews, I hoped to gain an understanding of the interests that will guide each stakeholder's negotiation toward consensus. I also used the individual interview to assess whether or not the stakeholders understand what it means to engage in a collaborative process. Fostering an understanding about the collaborative process and the goal of consensus early in the process gives clarity to the goal of updating the residential allocation system to be reflective of the interests of all stakeholders. It also allowed me to understand where shared understandings about the residential allocation system existed and where they did not. It was my responsibility to clarify areas where a shared understanding did not exist after the interviews were completed. I sent out an invitation letter (Attachment B) to each stakeholder outlining the goals of the interview and the collaborative process, and an informed consent letter as indicated by the human subjects approval (Appendix C and D). Lastly, I provided each stakeholder with questions that guide the interview. The questions that I provided were directed toward each stakeholder's interests in the

residential allocation update. The questions also sought to gain an understanding of each stakeholder's understanding of collaboration and what they believed their responsibility was in participating in a collaborative process. I have listed the questions I provided below.

- 1) What are your primary interests in considering changing the residential allocation system?
- 2) Are there any qualities or components of the existing allocation system that you would like to see maintained as part of the new system?
- 3) What are the least desirable qualities or components of the existing system?
- 4) What do you believe will serve as a major hurdle for consensus among all of the stakeholders?
- 5) What is your alternative to a negotiated agreement? In other words, what would you be willing to live with?
- 6) What else would you like us to know that would best serve the collaborative process?

Questions regarding the process...

- 1.) You should understand that the residential allocation update is intended to be a collaborative effort. From your perspective, what does this mean?
- 2.) What do you feel your responsibility is in this process?
- 3.) Given the current stakeholder list that I have given you, are there any groups or agencies not included that you feel should be included?
- 4.) Is the timeframe that the Local Government Committee approved realistic?

Finally, I used the information I obtained in these individual interviews to inform the group discussion I facilitated after TRPA staff and I conducted all of the individual interviews. I organized the information from the individual interviews into common themes and then further defined these themes into majority views and minority views. By organizing the information in this manner, I presented the stakeholders' ideas in a way that allowed them to see where common interests lay and where disagreement may arise. Organizing the information this way fostered a more productive focus group discussion.

Focus Group

The focus group was a very important component of the collaborative process. The purpose of the focus group was to present the stakeholders interests expressed in the individual interviews to the group and allow the stakeholders to discuss the alternatives. I presented the main themes from the individual interviews and the corresponding majority and minority views on each of those themes. A neutral facilitator is a key component in successful collaboration (Ansell and Gash 2007) and so it was my responsibility to continue to fulfill this role in the focus group, with TRPA staff participating as a stakeholder in this process. The goal of conducting this focus group was to generate consensus where we could and to delineate the areas where disagreement still existed. It was my goal to create an environment where stakeholders were able to engage in authentic dialogue and principled negotiations with each other. Not only did this environment help create consensus where feasible, but it also created a sense of

ownership of the process and the genesis of alternatives TRPA staff and I will put before TRPA Governing Board in January 2014.

Recommendation to the Local Government Committee

Lastly, I generated a report for the TRPA Local Government Committee summarizing my findings and providing a recommendation on how to proceed. The Local Government Committee is one of eight committees associate with the Governing Board, made up of Governing Board members who rotate through the committees. At this point, I assessed whether or not collaboration would continue to be an appropriate method in generating alternatives to the residential allocation system. In doing so, I assessed the level of consensus, and willingness to continue participation among the stakeholders.

In the following section, I will report my findings and analysis of the stakeholder selection process, the individual interviews, the focus group, and the recommendations to the TRPA Local Government Committee on how to proceed.

Chapter 4

THE COLLABORATIVE PROCESS: ENGAGEMENT, DELIBERATION, AND CONSENSUS

Public agencies are collaborative decision-making in land use issues with increasing regularity (Ansell & Gash 2007; Purdy 2012; and Siemon 1997). The update of TRPA's residential allocation system lends itself well to the collaborative process because of the multitude of people and places involved. TRPA's residential allocation system is a growth management tool that heavily emphasizes environmental preservation. To a lesser extent, the residential allocation system emphasizes the economic and social aspects of growth management. Additionally, TRPA's residential allocation system reflects regional goals and policies, as the TRPA is a regional regulatory agency. In updating the system, the TRPA must be aware of the interests of those that the update will affect; interests that are environmental, economic, and social in nature.

In this chapter, I will analyze the collaborative process, as it has occurred so far. Specifically, I will describe how TRPA staff and I chose the stakeholders to involve, the main themes the stakeholders presented in the individual interviews, and how those main themes framed the focus group and the areas of group consensus. Both environmental and economic considerations influenced the process, from engaging the stakeholders to the themes that arose out of the individual interviews and the focus group. TRPA staff and I used the results of this process to make a recommendation to the Local Government Committee about how to proceed with updating the residential allocation system.

Identifying Relevant Stakeholders: Relationships, Power, and Process

After initiating the collaborative process, TRPA staff and I began the stakeholder selection process by creating a list of anyone with an interest or affected by updating the residential allocation system. The list included those with either economic or environmental interest. TRPA staff heavily influenced this process because of existing relationships with these stakeholders in conjunction with other issues. In considering these relationships, TRPA staff considered stakeholder power to successfully promote or reject alternatives, the effects of possible alternatives on the different stakeholders, and which stakeholders might serve as technical experts. From this discussion, we identified the following stakeholders as being important to engage, listed in Table 4.1:

Table 4.1 List of Stakeholder Participants	
Stakeholder Affiliation	Stakeholder Position
City of South Lake Tahoe	Director of Community Services
Contractor's Association of Tahoe Truckee	Executive Director
Douglas County	Director of Community Services
El Dorado County	Building Official
League to Save Lake Tahoe	Executive Director
Nevada Division of State Lands	Deputy Administrator
Placer County	Supervising Planner for Community Development Resource Center
State of California Department of Justice	Supervising Deputy Attorney General for Kamala Harris, Attorney General
Washoe County	Planner

The Jurisdictions: Attention to Economics

The most apparent stakeholders to involve were each of the jurisdictions. The City of South Lake Tahoe, Douglas, El Dorado, Placer, and Washoe counties are the direct recipients of residential building allocations. If the demand for allocations exists within each of these jurisdictions, then each allocation that TRPA awards means a

property owner will build a home, contributing to property tax revenue for the jurisdiction. Jurisdictional representatives have clearly voiced this interest in the past. We selected a representative from each of these jurisdictions to contact and invite to participate in the process. TRPA staff suggested that these representatives be the jurisdiction's members on the TRPA Advisory Planning Committee (APC) due to their extensive background knowledge on the residential allocation system, as it currently exists. The members of the APC are also employed by their respective counties or city and are familiar with their jurisdictions demand for residential allocations.

California and Nevada: Emphasis on Regional Environmental Quality

TRPA staff recommended that we include a representative from both California and Nevada. The justification for this choice was to add a state component to the stakeholder group, lending a perspective from each state's point of view to the residential allocation system update. We chose to invite a representative from the California Attorney General's Office and the Nevada Division of State Lands because each of these agencies have worked with the TRPA in the past and are familiar with the Tahoe Basin's regional issues. In the past, representatives from these two agencies have promoted regional environmental improvements in conjunction with their respective states' environmental goals and policies. In addition, representatives from these agencies have influence over the TRPA Governing Board and can potentially block any potential alternatives that we may put before the Governing Board in January 2014. TRPA and I wanted to ensure that the discussion reflected California and Nevada's perspectives, but we also wanted to cultivate a working relationship with them on this particular issue to

avoid interruption to the process once we present our alternatives to the TRPA Governing Board.

Private, Non-Profit Environmental and Business Groups: A Necessary Dichotomy

To consider both economic and environmental interests in updating the residential allocation system, we invited a representative from the League to Save Lake Tahoe and the Contractors Association of Truckee Tahoe. The League to Save Lake Tahoe is a private non-profit environmental advocacy organization with considerable influence over TRPA issues. The League to Save Lake Tahoe is a respected voice in other TRPA issues in which they have been involved (TRPA 2012). For this reason, the League has taken the lead in advocating for the environment and cooperating with TRPA. The Contractors Association of Truckee Tahoe (CATT) represents the interests of property owners, builders, contractors, and designers in the Lake Tahoe region. CATT has been involved in the past with many TRPA issues that affect the building industry.

The initial conversation regarding which stakeholders to involve included stakeholders not invited to engage in the collaborative process. Specific reasons for not including these stakeholders varied. TRPA staff and I felt that we needed feedback from the core group of stakeholders before engaging more. After all, linkages between the issue and other stakeholders may arise as the process moved forward. TRPA staff and I felt that the core group of stakeholders represented an adequate spectrum of interests. Lastly, TRPA staff and I believed that stakeholders with more scientific and technical knowledge would be beneficial to include once there were alternatives to consider. While not including these stakeholders was justifiable to an extent, I had concerns over

how this might affect the collaborative process. I discussed this concern with TRPA staff, and we felt we could still retain the integrity of the collaborative process, which I will discuss next.

Concerns with the Stakeholder Selection Process

In considering which stakeholders to involve in a collaborative process, inclusion is of primary importance (Ansell & Gash 2007, Innes & Booher 2010, Innes & Gruber 2005, Leach 2007, and Straus 2002). According to Inness and Booher (2010), it would be acceptable to invite stakeholders into the process after we have begun collaboration, as necessary. We considered this possibility, particularly for prospective stakeholders with more technical and scientific expertise. Additionally, I was concerned that if we did not invite every stakeholder that was even slightly affected, we were setting up the process to represent the interests of those with considerable power and status and unintentionally excluding those with less. By ignoring these power imbalances, we can negatively affect the integrity of the collaborative process (Ansell & Gash 2007 and Straus 2002). However, collaboration as a decision-making tool is a time and resource intensive method. Understanding these constraints allowed TRPA staff and me to alter the collaborative process to operate within these realities. TRPA staff and I agreed to include additional stakeholders if and when appropriate and necessary after we conducted the focus group. Because any decisions made by the focus group would be put before the Local Government Committee and the Governing Board in public meetings, those who are not formal stakeholders would have the opportunity to express their interests in the public forum.

Individual Interviews: Engaging the Stakeholders into Meaningful Discussion

There were three components to the individual interviews. The first was to create an invitation letter explaining that the interview would pertain to updating the residential allocation system and that TRPA was pursuing a collaborative method. The second was creating the questions we would provide to the stakeholders before the interview, which would also guide TRPA staff and me in conducting the interviews. The third was to conduct the interview and generate a synthesis of the stakeholders' ideas and concerns. TRPA staff and I synthesized the common themes and assess the feasibility of pursuing a collaborative effort to inform and conduct the focus group. Overall, the themes and ideas produced from the individual interviews were a mixture between the stakeholders' environmental and economic interests. Environmentally conscious themes comprised the majority of stakeholder interest. I have summarized the main stakeholder ideas and concerns from the individual interviews in Table 4.2:

Table 4.2 Summary of Stakeholder Ideas and Concerns
Should TRPA continue to link allocation distribution to environmental performance?
What should the performance measures be?
Should TRPA weight the performance measures differently?
Should TRPA change the current percent distribution for each jurisdiction?
If the current percent distribution should be changed, then how?
Should TRPA's deadline for plan submittal to acknowledge an allocation remain?

In the next section, I will describe the individual interview process and assess the feasibility of continuing the collaborative process in updating the residential allocation system.

Inviting the Stakeholders to Engage

TRPA staff and I initiated the collaborative process to achieve the update with an invitation letter (Attachment B) inviting the pertinent stakeholders to engage in this process. The invitation letter needed to emphasize our goal of reaching consensus on a set of alternatives to present to the Governing Board using consensus-driven dialogue. The invitation letter also needed to relate our understanding of the importance of giving each stakeholder a voice in the direction of an update, promoting productive communication among stakeholders, and of providing a structure to the process that recognizes time and resource constraints. By agreeing to participate in the individual interview, I established that the relevant stakeholders were ready to initiate some kind of discussion surrounding the residential allocation system.

I emailed the individual interview questions to the stakeholders before the interviews so the stakeholders would understand our expectations. It was my responsibility to create the interview questions. In doing so, I referenced the existing literature on collaboration to help guide interest-based stakeholder assessments (Fisher, Ury, & Patton 1991; Susskind & Thomas-Larmer 1999). My goal was twofold: to create an environment highlighting interests and not positions, and to begin to understand the stakeholders' perception of collaboration. Additionally, I wanted to learn where a shared understanding of the components contributing to the existing residential allocation system

did exist and what potential problem areas existed. To achieve these goals, I developed interview questions consistent with the literature regarding the history of the problem, important issues, interests, possible conflicts, and time and resource commitments.

The stakeholders showed their willingness to participate in the collaborative process by participating in the individual interview. I invited nine stakeholders to participate in an individual interview and all of them agreed to engage. Their initial participation was important in contributing to their sense of responsibility in updating the residential allocation system. Each stakeholder gave unique responses in the individual interviews. Next, I will synthesize the information from the interviews to depict the main themes and the corresponding majority and minority views, followed by a discussion regarding what this data means for moving forward with the collaborative process and the residential allocation system update.

Individual Interviews: Majority and Minority Views

Several themes arose out of the individual interviews. While the stakeholders expressed interests coinciding with their agency's or organization's goals and policies, they also recognized the need to focus on regional environmental interests. Six major themes emerged from the individual interviews. I summarize these themes in Table 4.3 below and then discuss them in detail.

Table 4.3 Main Themes From Individual Interviews with Majority and Minority View	
Should TRPA continue to link allocation distribution to environmental performance?	
Majority View	Minority View

<ul style="list-style-type: none"> • Yes-a jurisdiction's allocations should be commensurate to their environmental contributions 	<ul style="list-style-type: none"> • No-TRPA should enforce growth management for growth management sake
Total Representation = 7 out of 9	Total Representation = 2 out of 9
What should the performance measures be?	
Majority View	Minority View
<ul style="list-style-type: none"> • Keep the existing Permit Monitoring and Compliance measurement • Add Total Max. Daily Load (TMDL) to replace Best Management Practices retrofit, Transit Level of Service, and Environmental Improvement Programs 	<ul style="list-style-type: none"> • Jurisdictions should only be evaluated on Permit Monitoring and Compliance • Include reduction of coverage in undesirable areas into Performance Review • There should not be any performance measures, jurisdictions shall receive allocations based on percentage
Total Representation = 6 out of 9	Total Representation = 3 out of 9
Should TRPA weight the performance measures differently?	
Majority View	Minority View
<ul style="list-style-type: none"> • Permit Compliance and Monitoring should be weighted more heavily because the jurisdictions have the most control over this measurement 	<ul style="list-style-type: none"> • TMDL should be weighted more heavily
Total Representation = 8 out of 9	Total Representation = 1 out of 9
Should TRPA change the current percent distribution for each jurisdiction?	
Majority View	Minority View
<ul style="list-style-type: none"> • Yes, TRPA should revisit how the baseline percent distribution was established and consider revising 	<ul style="list-style-type: none"> •
Total Representation = 9 out of 9	
If the current percent distribution should be changed, then how?	
Majority View	Minority View
<ul style="list-style-type: none"> • Distribution percentage should be based on the 	<ul style="list-style-type: none"> • Distribution percentage should align with Regional Plan priority areas for development

percent of vacant, buildable parcels in each jurisdiction	<ul style="list-style-type: none"> Distribution should be based on demand
Total Representation = 6 out of 9	Total Representation = 3 out of 9
Should TRPA's deadline for plan submittal to acknowledge an allocation remain?	
Majority View	Minority View
<ul style="list-style-type: none"> No, TRPA submission deadline should not remain, jurisdictions should have control over submission deadline 	<ul style="list-style-type: none"> Yes, TRPA submission deadline should remain to insure proper tracking of allocations
Total Representation = 8 out of 9	<ul style="list-style-type: none"> Total Representation = 1 out of 9

Should TRPA Continue to Link Allocation Distribution to Environmental Performance?

The first theme I will discuss in this section is the use of environmental performance within the residential allocation system and as a growth management tool. Under the current residential allocation system, TRPA awards allocations based on a combination of environmental performance measures including Best Management Practices retrofitting, residential building permit monitoring and compliance, environmental improvement program implementation, and transit level of service. The majority view was that environmental performance measures should continue to be a part of the residential allocation system. Additionally, the current environmental performance measures are out of date with the exception of the permit monitoring and compliance measurement. TRPA should explore new environmental performance measures. The stakeholders who portrayed this interest qualified their reasons for changing the environmental performance measures in the following ways:

- 1) The best management practices retrofit program unfairly placed the burden on the individual homeowners for earning allocations for their respective jurisdictions

2) The environmental improvement program implementation measure did not give enough credit to jurisdictions administering and implementing large and expensive environmental improvement projects, and

3) The transit level of service measurement is really controlled by the regional transit authorities and TRPA unfairly penalizes the jurisdictions for the regional transit authority's policies and practices.

The minority view was that the residential allocation system should be a growth management tool simply for regulating the timing and sequencing of development in the Lake Tahoe Basin. The timing and sequencing of development, in its more traditional use in growth management, is not linked to environmental performance.

What Should the Performance Measures Be?

The second main theme was the performance measures. We wanted to know how TRPA should award allocations to each jurisdiction. To explore this point, TRPA has to evaluate each jurisdiction on some criteria. A majority of the stakeholders think that residential allocations should be commensurate with environmental performance.

Incorporating Total Maximum Daily Load (TMDL) as a more relevant measurement appealed to many who held this view. TMDL is a numeric target for fine sediment discharge into the Lake that each jurisdiction must achieve. Lahontan Regional Water Quality Control Board and the Nevada Division of Environmental Protection regulate this measurement. However, TMDL is intrinsically related to various water quality, shorezone, and environmental improvement projects overseen by the TRPA. Because Lake Tahoe is a multi-jurisdictional body of water, the EPA recommended capping and

monitoring the TMDL for these fine sediment particles for each jurisdiction (State of Nevada 2011). Under the new Regional Plan, each jurisdiction must report and comply with California and Nevada TMDL targets. Many stakeholders expressed an interest in linking this requirement to the residential allocation system. Stakeholders from the jurisdictions and the building and business community generally believed that this measurement would satisfy environmental concerns over residential development. Additionally, environmental stakeholders were sensitive to jurisdictional time and resource constraints; using an existing mandated measurement alleviated the need to find the resources to comply with an additional regulation.

Permit monitoring and compliance was the only existing measurement that all of the stakeholders agreed was not outdated. Moreover, the stakeholders agreed that this category was the only existing measurement that the jurisdictions directly controlled. The jurisdictions themselves favored permit monitoring and compliance, stating that this measurement served as a good tool to evaluate their compliance with TRPA codes and policies and served as an incentive for earning additional allocations.

Should TRPA Weight Performance Measures Differently?

Currently, the four performance measures receive equal weighting. During the individual interviews, a few stakeholders suggested that TRPA consider weighting the performance measures differently. There was an even split between the stakeholders suggesting emphasis on TMDL and those suggesting permit monitoring and compliance. Hence, TRPA staff and I thought it important to include in the individual interview synthesis for the focus group. By weighting performance measures differently, TRPA

places a value judgment on which performance measures are important to it. TRPA staff and I wanted this value judgment to come from stakeholder deliberation.

Should TRPA Change the Current Percent Distribution for Each Jurisdiction?

The current baseline distribution percentage was the next main theme. TRPA established the current baseline distribution at the same time as it adopted the current performance measures. A majority of the stakeholders expressed an interest in revisiting how TRPA established the current distribution percentage. Exploring how TRPA established the current distribution percentage reflects the overall lack of understanding among all of the stakeholders regarding this component of the current residential allocation system and all of the stakeholders requested clarification regarding how TRPA established the current distribution percentage. The current distribution percentage appears in Table 4.4:

Table 4.4 Current Distribution Percentage by Jurisdiction with Maximum Yearly Allocations		
Jurisdiction	Current Distribution %	Maximum Allocations
Douglas County	7.14	9
El Dorado County	37.76	49
Placer County	22.45	29
Washoe County	16.67	2
City of South Lake Tahoe	15.99	21
Total	100%	130

If the Current Percent Distribution Should Be Changed, Then How?

A majority of the stakeholders expressed an interest in updating the distribution percentage to reflect the current building environment more accurately. The stakeholders were less cohesive as to how TRPA should update the distribution percentage. Stakeholders' ideas included distributing allocations in alignment with TRPA Regional Plan priority areas for development, distributing allocations based on demand, and distributing allocations based on the vacant and buildable parcels within each jurisdiction. Overall, the stakeholders demonstrated a misunderstanding of how TRPA currently distributes the numbers. Before discussing how to change the distribution percentage, it was important for me to create a shared understanding of how TRPA created it.

Should TRPA's Deadline for Plan Submittal to Acknowledge an Allocation Remain?

Lastly, the stakeholders asked TRPA staff and me to consider allowing the jurisdictions to control administering deadlines for plan submittal in order to acknowledge a residential building allocation. The current TRPA deadline to submit building plans in order to acknowledge a residential building allocation is December 31 of the allocation year. The recipient of the allocation then submits plans to the building department in its jurisdiction. Each jurisdiction has a way to circumvent TRPA's December 31 deadline because local officials say that the artificial closing date causes problems for both property owners and building officials. Hence, a majority of the stakeholders expressed an interest in letting the jurisdictions handle submittal deadlines and processes themselves. The minority view was that the TRPA December 31 deadline should remain in order to ensure proper tracking of the allocations.

Individual Interviews and Pursuing Collaboration

Beyond revealing stakeholders' concerns about the existing residential allocation system and how they would like to update the system, the individual interviews allowed me to assess if collaboration was a feasible approach. In the interview questions provided to the stakeholders, my goal was to gain commitment to the process, proposed timeline, and stakeholder responsibilities in the collaborative process. I also wanted a general statement from each of the stakeholders pertaining to what collaboration meant to them. Every stakeholder expressed commitment to engaging in the focus group. When I asked the stakeholders about the proposed timeline, just over half of the stakeholders stated that it was a feasible timeline to update the residential allocation system through collaboration. Just under half stated that the timeline was not realistic, particularly if collaboration was to be true and authentic. Additionally, some of the stakeholders worried that revisiting the distribution percentage would be contentious, and we needed in order to gain consensus on that point. The responses regarding stakeholder responsibilities to the process and stakeholder understanding of collaboration were unique and varied. I display these responses in Tables 4.5 and 4.6:

Table 4.5 Stakeholder Responses Regarding Timing and Commitment	
Are you committed to the collaborative process, in particular participating in the focus group?	
Answered Yes	9
Answered No	0
Is the approved timeline feasible for consensus?	
Answered Yes	5
Answered No	4

Table 4.6 Stakeholder Responsibility in Allocation Update
Stakeholder 1
To promote common understanding, common ground, and common interests in updating

the residential allocation system
Stakeholder 2
To understand the interests of the jurisdictions in the update, since the update primarily affects the jurisdictions
Stakeholder 3
To understand the issue from the perspective of other stakeholders, and to offer input about improving tracking and monitoring
Stakeholder 4
To advocate for a simpler allocations system and discuss issues with other stakeholders
Stakeholder 5
To find common ground that allows for the implementation of applicable codes and policies.
Stakeholder 6
To offer support for any good ideas that arise and use expertise to frame the discussion
Stakeholder 7
To bring expertise on the TRPA Regional Plan and to understand the issues that local jurisdictions face in regard to allocations
Stakeholder 8
To promote reasonable goals within the update and to ensure the future of development
Stakeholder 9
To explore how to meet their own goals through the ideas of other stakeholders

Based on the responses received in the individual interviews, I felt comfortable in pursuing the focus group as a part of the collaborative process. To summarize, all of the stakeholders stated they were committed to participating in the focus group. A majority of the stakeholders expressed interests in learning about the issues of the other stakeholders, in finding common ground in updating the allocation system, or offering support or expertise where useful. The stakeholders who thought the proposed timeline was not feasible thought it beneficial to have a goal in mind, and hoped the timeline was flexible if dictated by the process. Upon synthesizing the individual interviews, TRPA staff and I scheduled a group discussion to begin deliberating on the main themes.

Individual Interviews, Growth Management, and Collaboration

The individual interviews provided me with insight into current growth management possibilities and difficulties in the Tahoe Basin. The interviews also exposed the real life constraints of initiating a collaborative effort. In this section, I will discuss both.

The current growth management trends emphasize regionalism, smart growth, and redevelopment. The stakeholders whom I engaged recognized the need for a regional, cooperative approach to updating the residential allocation system, looking at a system that can address all stakeholders' interests. However, only one stakeholder promoted smart growth practices or redevelopment in priority areas as an interest in updating the allocation system. I believe the reason for this view is twofold. The first reason is that *because* of the regional focus in land-use planning within the Basin, stakeholders have had to contend with one another in pursuing their goals and policies. This contention makes promoting regional interests instead of local or goal-specific positions difficult. Additionally, some of the stakeholders believe that the residential allocation system should exist as a traditional growth management tool and environmental improvements should not be linked to the timing and sequencing of development. However, smart growth and redevelopment as growth management tools incorporate environmental measures such as air and water quality in addition to development timing and sequencing (Dunham-Jones and Williamson 2011). A more holistic approach to development is evident in the growth management trends, which dictates regional decision-making for land-use issues.

I analyzed the individual interviews to assess if conditions were favorable to proceed with collaboration and the schedule approved by the Local Government Committee. I was encouraged by the participation in the individual interviews by all of the stakeholders we invited, and by each stakeholder's commitment to participate in the focus group. This commitment fulfilled the initial component necessary to initiate a collaborative process. All stakeholders expressed a strong desire to engage with other stakeholders in pursuit of consensus in updating the residential allocation system. However, all of the stakeholders expressed concern regarding the distribution percentage. The stakeholders wanted to understand how TRPA established the distribution percentages, as all of the stakeholders had different understandings of the distribution. Before discussing distribution percentages any further, TRPA staff and I had to provide an explanation of how TRPA established the distribution percentages. If we could establish a shared understanding of the distribution percentages, I felt comfortable with proceeding with the focus group given the level of stakeholder commitment and the common goal of consensus.

Focus Group: Deliberation and Consensus

The purpose of conducting the focus group was to engage the stakeholders in face-to-face dialogue to discuss the main themes that arose from the individual interviews. Additionally, I emphasized that TRPA staff and I would report the findings from the focus group to the Local Government Committee and make recommendations for how to proceed. TRPA was a stakeholder in the focus group because of its role of being the regulatory agency in charge of enforcing any consensus. The focus group was

successful in that all of the stakeholders participated. TRPA staff and I created a memo (Attachment E) detailing the main themes from the individual interviews and the majority and minority views for each theme, which we sent to all of the stakeholders prior to the focus group. The group was able to reach consensus on a portion of the topics proposed for discussion; topics gleaned from the interviews. The group agreed to postpone discussion on the topics where they did not reach a consensus until TRPA provided more information to facilitate common understanding. Next, I will summarize the successes of the focus group and offer analysis on how to move forward with the collaborative process.

Successful Discussion and Consensus

The focus group was successful in that all stakeholders participated, I served as a neutral third party facilitator, and the group was able to reach consensus on some components of the residential allocation update. Table 4.7 summarizes the areas where the stakeholders successfully deliberated to find consensus, and where disagreement still existed after the focus group. I discuss the areas of stakeholder agreement and disagreement in detail in the following sections.

Table 4.7 Focus Group Areas of Agreement and Disagreement	
Should TRPA continue to link the distribution of allocations to environmental performance?	
Agreement	Disagreement
<ul style="list-style-type: none"> • Yes, allocations should continue to be distributed based on a jurisdiction's environmental performance 	<ul style="list-style-type: none"> • None
What should the performance measurements be?	
Agreement	Disagreement
<ul style="list-style-type: none"> • Permit Monitoring and Compliance • TMDL 	<ul style="list-style-type: none"> • Details on how TMDL would be incorporated as a performance measurement were not agreed upon. The group asked for more direction on this from Lahontan Regional Water Quality Control Board and the Nevada Department of Environmental Protection
Should performance measures be weighted differently?	
Agreement	Disagreement
<ul style="list-style-type: none"> • The group wanted more details on how TMDL would be incorporated into the system before making a decision on weighting 	<ul style="list-style-type: none"> • None
Should TRPA change the current baseline percent distribution for each jurisdiction?	
Agreement	Disagreement
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Any scenario put forth in the focus group garnered winners and losers. No matter what, a jurisdiction would lose out on allocations • The focus group requested more information on current conditions regarding buildable parcels
Should TRPA's deadline for plan submittal to acknowledge an allocation remain?	
Agreement	Disagreement
<ul style="list-style-type: none"> • No, the jurisdictions should use their own deadlines, as long as 	<ul style="list-style-type: none"> • None

they comply with TRPA accounting and tracking of allocations	
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Should TRPA Continue to Link the Distribution of Allocations to Environmental Performance?

The first theme that the stakeholders discussed in the focus group was whether TRPA should continue to link the distribution of allocations to environmental performance. This decision was important to make. While linking allocations to environmental performance deviates from the traditional growth management tools, consensus on this linkage would help solidify the overwhelming importance the stakeholders continually agreed to place on the environment. The focus group agreed that TRPA should continue to tie allocation distribution to environmental performance. One stakeholder entered into this consensus with the caveat that we report to the Local Government Committee that this stakeholder believed growth management should strictly reflect timing and sequencing of development with no environmental linkage. The stakeholder said that it was willing to give up this position in the interest of the process, understanding that maintaining a hard position against an environmental linkage would stifle progress on the other points of discussion.

What Should the Performance Measurements Be?

The second main theme the focus group discussed was what the performance measurements ought to be. The focus group discussed the advantages and disadvantages of the existing performance measures. Unanimously, the stakeholders agreed that permit monitoring and compliance should remain. Permit monitoring and compliance is a

simple yet effective tool for evaluating the jurisdictions enforcement of TRPA policies. It is simple enough that the jurisdictions are encouraged to comply in order to earn additional allocations. There was a general sense of frustration over the lack of direct control jurisdictions have over the other existing measures. Interestingly, the jurisdictions were willing to explore the possibility of incorporating Total Maximum Daily Load (TMDL) as a replacement for Best Management Practices retrofitting, Environmental Improvement Project implementation, and Transit Level of Service. Because of TMDL's clear emphasis on water quality, the environmental stakeholders were also willing to consider this replacement. In the end, the consensus that the focus group came to was to maintain permit monitoring and compliance in the update and to explore how TRPA might incorporate TMDL as a measure. The focus group requested engaging the TMDL expertise of Lahontan Regional Water Quality Control Board and the Nevada Division of Environmental Protection, as these agencies are in charge of enforcing TMDL regulations.

Should TRPA Weight Performance Measures Differently?

The third theme the focus group deliberated was whether TRPA should weight the performance measures differently, as opposed to equal weighting among the four existing performance measures. There were two opinions. The first was that TRPA should put more emphasis on permit monitoring and compliance, because this measure actually encourages the jurisdictions to enforce TRPA regulations more strictly because of its relative simplicity. The second opinion was that the focus group should revisit this theme after we had received input from Lahontan Regional Water Quality Control Board and

the Nevada Division of Environmental Protection. Either option is a continuation of environmental quality and improvement in the update.

Should TRPA Change the Current Baseline Percent Distribution for Each Jurisdiction?

The fourth theme the focus group discussed was whether TRPA should change the baseline distribution percentage. This theme was the most contentious because winners and losers are inevitable. Not on the table for discussion was the 130 allocations TRPA makes available every year. The 2012 Regional Plan dictates the availability of 130 allocations and attempting to change this number would cause significant and undesirable legal complications. In the individual interviews, all of the stakeholders asked TRPA to provide the number of current, available, and buildable lots within each jurisdiction. TRPA based the current distribution table on this same data, but from over 10 years ago. The built environment of today looks significantly different than it did 10 years ago. Revisiting these numbers would change the distribution percentages. If the distribution percentages change, at least one jurisdiction would lose annual allocations. The jurisdictions could not agree to this potential loss. While the stakeholders expressed a strong desire to revisit the distribution percentage at some point, they agreed to table this concern in order to pursue consensus on other points. If the stakeholders revisit the distribution percentages in the future, the demand for residential allocations would play a bigger role in the residential allocation update.

Should TRPA's Deadline for Plan Submittal to Acknowledge an Allocation Remain?

The last theme that the focus group discussed was TRPA's December 31 deadline. The jurisdictions all communicated they had instituted their own deadlines,

making the TRPA deadline obsolete. The other stakeholders did not present a strong interest in this particular point. The focus group consensus was that the jurisdictions would enforce their own allocation acknowledgement deadlines, which will comply with TRPA accounting and tracking requirements. By placing the submission deadline with the jurisdictions, the jurisdictions can manage their respective allocation demands with their yearly allocation allotments more effectively. This agreement is the sole area of consensus that represents growth management as timing and sequencing tool.

In summary, the stakeholders reached consensus on maintaining the linkage between environmental performance measures and the residential allocation system, exploring how to incorporate TMDL as a performance measurement, retaining the permit monitoring and compliance measure, and shifting allocation acknowledgement deadlines to the local jurisdictions. These areas of agreement represent the emphasis on environmental quality that persists as a component of growth management in the Lake Tahoe Basin. Based on the focus group recommendation, TRPA and I engaged representatives from Lahontan and NDEP for their technical expertise on TMDL on the approval of the Local Government Committee. A high degree of contention surrounded adjusting distribution percentages, and the focus group opted to table this concern. The focus group gave its approval to take these results to the Local Government Committee for further consideration and recommendations.

Local Government Committee and Moving Forward

The TRPA Governing Board made updating the residential allocation system a priority in May 2013. In July 2013, TRPA staff and I presented our plan and proposed

timeline (Attachment C) to the Local Government Committee. The members of the Local Government Committee approved our proposed plan and timeline. TRPA staff, the Local Government Committee, members of the public, and I held a brainstorming session to define desirable qualities of and alternatives for the residential building allocation update. The qualities included the following:

- Easy to understand
- Logical
- Politically palatable
- Legal

The possible alternatives included the following:

- Release allocations based on market demand
- Retain the existing Environmental Improvement Program performance measurement but measure it differently
- Release allocations to sustain construction
- Release the 130 maximum yearly allocations without a performance system, based on percentages
- Distribute based on Total Maximum Daily Load

Upon conclusion of the focus group, TRPA staff and I prepared our recommendations for moving forward with the collaborative process and updating the residential allocation system. Based on the focus group consensus, we asked the Local Government Committee for approval to develop TRPA Code of Ordinances code amendments that consolidated the performance measures from four to two and for deleting TRPA

deadlines from the Code of Ordinances. We also asked for permission to engage Lahontan Regional Water Quality Control Board and the Nevada Division of Environmental Protection. We recommended working in conjunction with Lahontan and NDEP to develop alternatives for incorporating TMDL as a performance measure, which we could then present to the group of stakeholders for feedback and deliberation. While the members of the LGC agreed that our recommendation was easy to understand, logical, politically palatable, and legal, contention among the Local Government Committee members remained as to whether or not there should be so much environmental emphasis within the allocation system. TRPA staff and I reminded the LGC that it agreed to defer these decisions to the approved stakeholders, and the emphasis on environmental performance was the consensus. We received approval from the LGC to pursue all of our recommendations and report at the December 2013 Local Government Committee meeting.

Concluding Remarks of the Collaborative Process

In summary, TRPA staff and I successfully engaged the relevant stakeholders in the discussion about updating the residential allocation system. The stakeholders proposed relevant and feasible ideas in how to update the system and demonstrated a willingness to pursue the update through a collaborative process. In the focus group, the stakeholders reached consensus on key components of updating the system, including maintaining the environmental linkage to residential allocations, exploring Total Maximum Daily Load as a performance measure, and turning over submission deadlines to the jurisdictions.

The collaborative process is not over. For the purpose of my thesis, I have ended analysis at the point where the Local Government Committee approved TRPA staff and me to pursue the process as we recommended, based on the individual interviews and the focus group. In the next chapter, I will elaborate on how TRPA staff and I will continue the process.

Chapter 5

CONTINUING THE COLLABORATIVE PROCESS AND THE FUTURE OF GROWTH MANAGEMENT IN THE LAKE TAHOE BASIN

TRPA established its current residential allocation system in 2002. The TRPA Governing Board recommended that TRPA staff update this system to be more consistent with the TRPA Regional Plan approved in 2012 and the building environment, as it currently exists. My responsibility to TRPA was to aid TRPA staff with this update. As a result, I helped design and conduct a collaborative process that allowed stakeholders to shape a residential allocation system reflective of their shared interests. The collaborative effort thus far has produced consensus among the stakeholders. In particular, the stakeholders agreed to continue to link residential allocations to environmental performance, to collapse the existing four performance measures into two, explore the incorporation of Total Maximum Daily Load (TMDL) as a performance measure, and defer all submission deadlines to the local jurisdictions. TRPA staff and I presented the consensus to the Local Government Committee on October 23, 2013, and received approval to pursue changes to the residential allocation system. For the purpose of my thesis, my analysis ends with the October 23, 2013, Local Government Committee's approval. However, I will continue work on the collaborative process to update the residential allocation system. To conclude my thesis, I will discuss my recommendations for pursuing collaboration, the limitations of my analysis, recommendations for future analysis, and offer my thoughts on what this update means for growth management in the Lake Tahoe Basin.

My Recommendations for Pursuing Collaboration

The ultimate goal of the collaborative process and this thesis are to present a feasible residential allocation update for the TRPA Governing Board to vote on in January 2014. The stakeholders agree that incorporating Total Maximum Daily Load (TMDL) as a performance measure for residential allocations needs more discussion. The stakeholders also requested that TMDL experts provide more information about TMDL so that TRPA and stakeholders can develop simple alternatives. Because the Lahontan Regional Water Quality Control Board and the Nevada Division of Environmental Protection have authority to enforce TMDL standards for each jurisdiction within their respective states, I recommend that TRPA staff engage a representative from each agency to create a simple TMDL measurement for the allocation system. Lahontan and the Nevada Division of State Lands also contribute scientific and technical expertise to the TMDL conversation, an important component to the collaborative process. I recommend that TRPA staff conduct another focus group with the same group of stakeholders as well as the representatives from Lahontan and Nevada Division of State Lands to deliberate over the proposed alternatives. Collaboration is an iterative process, so I cannot make a recommendation on how to proceed following the next focus group. However, it is my hope that the focus group will come to a consensus on a TMDL measurement that TRPA staff and I can present first to the Local Government Committee in December 2013 and then to the Governing Board in January 2014.

Limitations of My Analysis

While the collaboration that took place was effective and productive, it was incomplete. The process was incomplete because of where analysis ended for the purpose of this thesis and because of timing and resource considerations for all participants. Many of the recommendations that I made for continuing the collaborative process, including engaging additional stakeholders and facilitating at least one additional focus group, will make the analysis more complete. Unfortunately, I will not include the findings that arise from the continuation of the collaborative process and the ultimate recommendation to the TRPA Governing Board in this analysis.

My larger concern, and a concern many scholars have with collaboration in general (Ansell & Gash 2007, Purdy 2012), lay in the problems that inadequate time and resources create for a theoretically sound collaborative process. The problems that I encountered with this particular collaborative process were the result of both timing and resource problems. For example, the five jurisdictions have all experienced funding and personnel cutbacks over the last five years. Because of the demands already placed on the jurisdictions' staff, scheduling the individual interviews was difficult and TRPA staff and I experienced significant delays in conducting the interviews. Once we fell behind on the interviews, the rest of our proposed timeline fell behind schedule. The opinion of some of the stakeholders that our timeline was not reasonable complicated this situation. Meanwhile, the Local Government Committee was eager for an update, reiterating the belief that the timeline was adequate. These external pressures and timing problems are difficulties that conveners of collaborative processes face all the time. More time would

be the greatest asset in producing a residential allocation system that is not only acceptable but consensual in every concern that the stakeholders expressed.

Recommendations for Future Analysis

It is clear from my analysis that environmental performance will remain part of the residential allocation system. It is also clear that the 130 allocations that TRPA releases to the jurisdictions each year, as mandated by the 2012 TRPA Regional Plan, will not change. As such, the biggest debate within the residential allocation system is what percentage of allocations each jurisdiction begins with every year before the performance measurement system determines gains and losses. Beyond my recommendations for this particular collaborative process, I believe TRPA staff could conduct a separate collaborative process on determining the distribution percentage of allocations. At the Local Government Committee meeting on October 23, 2013, the committee agreed to table this particular discussion, as the stakeholders had not gained consensus. However, all of the stakeholders agreed to the need to address the distribution percentage with the cooperation of TRPA staff. For this discussion to continue, TRPA must commit resources to finding out how many buildable parcels exist in each jurisdiction. Providing this information will require TRPA to commit staff and time, as there are many factors TRPA and the jurisdictions consider that make a parcel buildable. These factors are different today than they were 10 years ago when the TRPA established distribution percentages. I am hopeful that the distribution percentage discussion will continue and the result will be a baseline distribution reflective the current building environment.

Several opportunities exist to explore approaches that are more comprehensive to residential development in the Lake Tahoe Basin, particularly because it is likely that the Basin will eventually reach its maximum allowable build-out on privately owned parcels. One particularly interesting idea for future research is a reconciliation of smart growth principles with development and redevelopment of Town Centers and Regional Centers. Focusing redevelopment of the existing built environment for temporary/seasonal housing and moderate-income housing will become increasingly important as the Basin approaches build-out and population increases. Incorporating an incentive into the allocation system to encourage this type of development is an area needing attention, research, and eventually, collaboration.

What This Update Means for Growth Management in Lake Tahoe

My findings show that growth management in the Lake Tahoe Basin continues to emphasize environmental values. This emphasis does not mean that TRPA and environmental organizations ignore economic interests. However, it does mean that land-use decisions, such as growth management, will be made with environmental considerations. Therefore, timing and sequencing, as with traditional growth management, will continue to make up only a small part of growth management policy in the Lake Tahoe Basin. This conclusion is the result of several factors.

TRPA as the Regulatory Authority

The first is that the regulatory agency with ultimate authority over land-use in the Basin is TRPA, and its mission is environmentally motivated. According to the 2012 TRPA Regional Plan, TRPA's purpose is to

- 1) Maintain the significant scenic, recreational, educational, scientific, natural, and public health values provided by the Region; and
- 2) Ensure equilibrium between the Region's natural endowment and its manmade environment.

To fulfill this purpose, TRPA must establish and maintain the threshold carrying capacities for air quality, water quality, soil conservation, vegetation preservation, and noise.

Environmental Stakeholders

The second reason for the environmental emphasis is that many of the stakeholders involved in any land-use decision are environmental agencies or organizations. Both public and private agencies and organizations such as the League to Save Lake Tahoe, the Sierra Club, California and Nevada Environmental Protection, the Nevada Conservation League, the California Natural Resources Agency, and the Lahontan Regional Water Quality Control Board have significant environmental responsibilities and interests to protect. These agencies and organizations have become significant stakeholders in Basin land-use issues. For example, representatives from these agencies and organizations played crucial roles in updating the Regional Plan leading up to its approval in 2012, participating in a collaborative process that took place over several years.

Acceptance of Environmental Emphasis

The third reason that environmental performance persists in this residential allocation update is that most non-environmental stakeholders accept that preserving the

environmental integrity of Lake Tahoe is part of living and doing business in this Region. This perception was echoed not only in the individual interviews and the focus group, but also in the Local Government Committee meetings I attended for this project. Some the stakeholders whose interests lay with promoting building and development admitted that in order for consensus to occur, TRPA would need to continue to incorporate environmental measures into a new allocation system. Although environmental emphasis has always persisted in the Lake Tahoe Basin since TRPA's inception, this emphasis coincides with the smart growth and redevelopment trends in growth management that are taking place in California and Nevada.

Implications for Growth Management and Collaboration

Growth management policies will evolve beyond timing and sequencing tools out of necessity. The sprawl that timing and sequencing tools have accommodated is no longer acceptable. Communities will increasingly turn to alternative growth management tools such as regionalism, smart growth, and redevelopment. City and county planners will see their growth management systems enhanced by tools that emphasize environmental preservation, among other local interests. This transition has been the case in the Lake Tahoe Basin for 25 years, since the 1987 Regional Plan. As indicated by the collaborative process I conducted for this thesis, the emphasis on policies that go beyond simple timing and sequencing will continue to be the trend. However, by expanding the traditional definition of growth management, TRPA staff and jurisdictional officials also expand the number of people involved in and affected by growth management policies.

Therefore, the ways by which public private decision-makers embark on changing and updating growth management policies must evolve.

Collaboration is an effective way to deal with the increasing complexity of growth management. Collaboration allows for deliberation among stakeholders with different opinions but shared interests. The process that I conducted for this thesis is one example on a growing list of collaborative efforts that reconcile economic and environmental stakeholders opposing positions. Decision-makers must weigh collaboration's timing and resource challenges against the benefits of reaching consensus among the relevant stakeholders. The benefits include but are not limited to interest-based alternatives to an issue, practical and feasible policy implementation, and a shared understanding of the problem and the solution. Collective responsibility will be increasingly important as our communities and systems become more interconnected.

Concluding Remarks

The increasing use of collaboration as a method to deliberate and propose solutions to land-use problems opens the door for new ideas on how to handle these complex issues. I am encouraged that the Tahoe Regional Planning Agency has truly embraced its regional character and used collaboration where possible to make decisions. The findings and analysis that I have provided based upon the collaborative process is just one example of how TRPA can use collaboration to produce effective and realistic policy and code. Although collaboration poses timing and resource difficulties and may not be appropriate for every land-use decision in the Tahoe Basin, I am encouraged by the possibility to create a building environment that is the result of varied interests and

ideas. Future ties between growth management and collaboration will be important as ever in the Lake Tahoe Basin.

APPENDIX A

Transit Level of Service Criteria

- 1) Headways
- 2) Passengers
- 3) Number of vehicles in service (peak)
- 4) Number of routes
- 5) Annual vehicle service hours
- 6) Annual vehicle service miles
- 7) Average daily service hours
- 8) Linear miles of service
- 9) Square miles of service

APPENDIX B

Stakeholder Individual Interview Invitation Letter

Dear Interviewee,

The Tahoe Regional Planning Agency Governing Board recently directed TRPA staff to update the residential allocation system. In compliance with this directive and in consideration of any environmental and economic impacts that this update may have, the TRPA will undertake a collaborative process to ensure that the interests of all stakeholders are met. A collaborative process uses consensus-driven dialogue with the parties who will be affected to craft a solution to a concern. We strongly believe that a collaborative process will foster consensus regarding the update of the residential allocation system.

The goals of this collaborative process are to:

- Ensure that all stakeholders have a voice in the direction of any new residential allocation system,
- Promote productive communication among the stakeholders, and
- Provide the structure that the allocation update process will follow, as approved by the Local Government Committee on July 24, 2013 (See attached).

The initial stage of the collaborative process will be to conduct individual stakeholder interviews. As an interested party, we request your participation. Please respond to this email to schedule an interview regarding the residential allocation update. Your feedback from this interview will be confidential and vital to the development of the process.

We sincerely look forward to your participation and are available should you have any questions. Please contact Tiffany Good at tgood@trpa.org if you do not wish to participate.

Sincerely,

Tiffany Good
Residential Allocation Program Leader
Tahoe Regional Planning Agency

APPENDIX C

Human Subjects Informed Consent Letter for Individual Interview

(purpose of the research) You are being asked to participate in research which will be conducted by Tiffany Good, a graduate student in Public Policy and Administration at California State University, Sacramento. The interview will address possible forthcoming changes to the Residential Allocation System for the Tahoe Regional Planning Agency.

(research procedures) You will be asked several questions about the current residential allocation system and changes you would like to see made in the future system. The interview may require up to an hour of your time.

(risks) You do not have to answer any question if you don't want to.

(benefits) You may gain additional insight into factors that affect the distribution of the residential building allocations and the interests that other stakeholders present, or you may not personally benefit from participating in this interview. It is hoped that the results of the interview will be beneficial for the 2014 update to the Residential Allocation System.

(confidentiality) Everything you say in the interview will remain confidential unless you grant explicit permission to be identified by name and/or organization in the final report. Please make your request known at the start of the interview and check the appropriate box below. You may change your request at any time during or after the interview.

"I wish to be identified by name in the written research report."

"I request that my name not be disclosed, but consent to being identified as a representative of the organization I represent. I consent to particular quotes from the interview to be attributed to my organization. I acknowledge that given the small number of people being interviewed, it may be possible for readers of the thesis to infer my identity even if I am not identified by name."

"I request that nothing I say be publicly attributed to me, my employer, or clients I represent. However, I acknowledge that given the small number of people being interviewed, it may be possible for readers of the thesis to infer my identity even if I am not identified by name."

(compensation) You will not receive any compensation for participating in this interview.

(contact information) If you have any questions about this research, you may contact Tiffany Good or Dr. Kirilin by email at kirilinm@saclink.csus.edu
Your participation in this interview is entirely voluntary. Your signature below indicates that

you have read this page and agree to participate in the research.

Signature of Participant

Date

APPENDIX D

Human Subjects Informed Consent Letter for Focus Group

(purpose of the research) You are being asked to participate in research which will be conducted by Tiffany Good, a graduate student in Public Policy and Administration at California State University, Sacramento. The focus group will address possible forthcoming changes to the Residential Allocation System for the Tahoe Regional Planning Agency.

(research procedures) You will be asked to engage in a group discussion concerning the current residential allocation system and changes you would like to see made in the future system. The focus group may require up to four hours of your time.

(risks) You do not have to answer any question if you don't want to. And you do not have to engage in any part of the group discussion that you don't want to.

(benefits) You may gain additional insight into factors that affect the distribution of the residential building allocations and the interests that other stakeholders present, or you may not personally benefit from participating in this focus group. It is hoped that the results of the focus group will be beneficial for the 2014 update to the Residential Allocation System.

(confidentiality) Everything you say in the focus group will remain confidential unless you grant explicit permission to be identified by name and/or organization in the final report. Additionally, you are being asked to engage in face-to-face discussion with other stakeholders. This information will also remain confidential unless you grant explicit permission to be identified by name and/or organization in the final report. Please make your request known at the start of the interview and check the appropriate box below. You may change your request at any time during or after the interview.

"I wish to be identified by name in the written research report."

"I request that my name not be disclosed, but consent to being identified as a representative of the organization I represent. I consent to particular quotes from the interview to be attributed to my organization. I acknowledge that given the small number of people being interviewed, it may be possible for readers of the thesis to infer my identity even if I am not identified by name."

"I request that nothing I say be publicly attributed to me, my employer, or clients I represent. However, I acknowledge that given the small number of people being interviewed, it may be possible for readers of the thesis to infer my identity even if I am not identified by name."

(compensation) You will not receive any compensation for participating in this interview.

(contact information) If you have any questions about this research, you may contact
_Tffany Good or Dr. Kirlin by email at kirlinm@saclink.csus.edu
Your participation in this interview is entirely voluntary. Your signature below indicates
that
you have read this page and agree to participate in the research.

Signature of Participant

Date

APPENDIX E

Stakeholder Update Memo

MEMORANDUM

To: Residential Allocation Update Stakeholder Working Group

From: TRPA Staff

Subject: Discussion topics for Stakeholder Meeting on October 7, 2013

Thank you for your continued participation in the residential allocation update process.

This information is being provided in preparation for the group discussion at TRPA on October 7, 2013, at 10:00 am. The goal of the stakeholder working group is to produce a set of recommendations for the issues listed below for the Local Government Committee. On October 23, 2013, staff will present the group's recommendation on the various issues to TRPA's Local Government Committee.

1. Topic: Allocation distribution performance measures

A. Should TRPA continue to link the distribution of allocations to environmental performance?

B. What should the performance measurements be?

C. Should performance measures be weighted differently?

2. Topic: Method of allocation distribution

A. Should the current percent distribution of allocations for each jurisdiction be changed?

3. Topic: Allocation deadlines

A. Should the recipient of an allocation still be required to submit plans to build or transfer by December 31 of the year the allocation is assigned to a parcel?

Contact Information: For questions regarding this memorandum please contact Patrick Dobbs (pdobbs@trpa.org/775-589-5215), or Tiffany Good (tgood@trpa.org).

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