

BMPs may become issue when selling property

By Kathryn Reed

STATELINE – Lake Tahoe homebuyers and sellers beware because the Tahoe Regional Planning Agency is looking to crackdown on erosion control measures at private residences.

There is a good chance that a year after escrow closes BMPs will have to be completed. And when it comes time for disclosure about BMPs, sellers may be asked to pony up the money to have them completed or for the selling price to be reduced.

On July 8 a room of about 70 people, most of whom are in the real estate business, gathered to hear what the future of best management practices will be as well as to give the nine-member committee their opinions.



Rocks in front of this residence are a drip line so runoff from the roof doesn't pound the ground. Photo/LTN

A working group was convened earlier this year to address the BMP issue because the Regional Plan committee could not find a resolution prior to the update being adopted in December 2012. The group first met in March.

What has the real estate community up in arms is the possibility of requiring BMPs be done at the point of sale. Collectively, they said this would hurt their industry and is not the best way to achieve the main goal – which is to reduce sediment from reaching Lake Tahoe.

Even though it was pointed out in the staff report that primary roads are the overwhelming transporter of runoff, that was barely touched upon. Jason Kuchnicki with Nevada Department of Environmental Protection and Jason Burke with South Lake Tahoe brought it up, but the conversation went nowhere. (They are on the working group.) Of the five categories, single-family residences carry the least debris to the lake. In fact, those parcels along with multi-family residences, secondary roads and “land use category” don’t collectively total the amount of sediment of primary roads.

It is Clem Schute, California’s rep on the TRPA Governing Board, and Dan Siegel with the California Attorney General’s Office (both working group members) who are pushing for the point of sale BMP requirement. They are willing to delay the discussion for two years when the Regional Plan will be updated. (That document is now being looked at every four years.)

But what they want now is any residence that is sold to have its BMPs within a year. The fine per day would be \$5,000 – or nearly \$2 million a year. It was pointed out how this practice is equivalent to having a point of sale mandate.

Shelly Aldean, Nevada Governing Board member who is on the working group, said the fine is already part of the TRPA Compact and is not something new.

Agents for years have chosen to have sellers disclose and buyers acknowledge whether BMPs existed. Now, they say, the market is dictating that BMPs are becoming a negotiating point without TRPA intervention.

All residences were supposed to have put in BMPs by now, but the TRPA has been lax about enforcement. (However, about 60 letters are going out soon to Al Tahoe residents.) Part of the lack of enforcement has to do with staffing, and part with the evolution of science since 1987 when the first Regional Plan was adopted.



Water from the Bijou area drains from a large pipe right into Lake Tahoe. Photo/LTN file

Plus, the passage of the total maximum daily load protocols calls for jurisdictions to reduce fine sediment in order to be in compliance with state agencies. Working on roads and larger erosion control projects is how they will achieve this.

It was stated at the meeting that even if all the residences in the basin did their BMPs, it would not add up to enough credits to satisfy the larger state goals. (Half of the residents in the basin have completed their BMPs.)

Many who spoke – including working group members – said the big picture is what should be looked at instead of going parcel by parcel. This includes putting together assessment districts like South Lake Tahoe has done with the Bijou properties. That is a multi-year project that is under way now that involves commercial and residential parcels.

But things like that take time. The Bijou process started in

2007. And when some property owners balked, the city and TRPA teamed up and threatened them with a lawsuit.

There was talk of looking at the areas in the basin that are the biggest contributors to sediment runoff and working to get those parcels into a stormwater district so it would have a greater environmental impact and likely cost less because of the economies of scale.

“The rest of the country is far ahead of us on this,” Joanne Marchetta, TRPA executive director, said.

At the Aug. 20 meeting the group is expected to finalize the TRPA document real estate agents use in regards to BMP disclosure.

In the meantime, security deposit forfeitures will be a topic for the Legal Committee to tackle. The discussion would cover the use of those funds and the possibility of targeting additional funds for BMP enforcement.

For next month’s meeting staff will also bring back a detailed document for how enforcement could be handled.

The group meets from 9am-noon (or longer as the case was Tuesday) at the TRPA offices in Stateline.

Other working group members are Karin Staggs (Nevada Tahoe Conservation District), Sara Ellis (Nevada Realtors), Shannon Eckmeyer (League to Save Lake Tahoe), and Woody Loftin (Natural Resources Conservation Services).