

**IA TAHOE CONSERVANCY**

Street  
 SOUTH LAKE TAHOE, CA 96150  
 (530) 542-5580



October 1, 2009

RECEIVED BY  
 OCTOBER 1 2009  
 OCT 01 2009

**Steve Kooyman**  
 El Dorado County Department of Transportation  
 924B Emerald Bay Road  
 South Lake Tahoe, CA 96150

**RE: CTA-97 014 Amendment #4**

Dear Mr. Kooyman;

Enclosed are five (5) copies of Agreement CTA-97 014 Amendment #4 between El Dorado County and the California Tahoe Conservancy for the Silvertip/Upper Angora Creek/Woodland/Lonely Gulch/Cascade grant.

Please have all copies of the agreement signed with an original signature and returned to this office. Once this agreement has been fully executed by the Conservancy, it will be forwarded to the Department of General Services (DGS) for final processing and approval. One original signed agreement will be forwarded to you by DGS for your records.

If you have any questions, please call me at (530) 543-6018.

Sincerely,

*Janet Shintaku*  
 Janet Shintaku  
 Contract and Grant Analyst

Enclosures

**STANDARD AGREEMENT** - APPROVED BY THE ATTORNEY GENERAL

STD. 2 (REV. 5-91)

CONTRACT # <b>CTA-97014</b>	AM. NO. <b>4</b>
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION # <b>94-6000511</b>	

THIS AGREEMENT, made and entered into this 30th day of September, 2009, in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting.

TITLE OF OFFICER ACTING FOR STATE Executive Officer	AGENCY <b>California Tahoe Conservancy</b>	, hereafter called the State, and
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CONTRACTOR'S NAME <b>County of El Dorado</b>	, hereafter called the Contractor.
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WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State services and materials as follows: (*Set forth service to be rendered by Contractor, amount to be paid Contractor, time for performance or completion, and attach plans and specifications, if any.*)

The Agreement numbered CTA-97014 (hereafter "the Agreement") between the California Tahoe Conservancy (hereafter "the Conservancy") and the County of El Dorado (hereafter "Grantee"), as amended on January 1, 1999 by CTA-97014.10, March 19, 1999 by CTA-97-014.20, and March 19, 2004, by CTA-97014.30, is hereby amended as follows:

- The amount of the grant from the Conservancy to Grantee, for the purpose of the acquisition of real property or interests, therein for the Cascade Erosion Control Project as provided under Paragraph 1 - Scope of Agreement and Paragraph 4 - Costs and Disbursements, is increased by One Hundred Eight Thousand Nine Hundred Seventy Six Dollars (\$108,976) to a total of One Million Two Hundred Twelve Thousand Seven Hundred Seventy Six Dollars (\$1,212,776).

CONTINUED ON 1 SHEETS, EACH BEARING NAME OF CONTRACTOR AND CONTRACT NUMBER.

IN WITNESS WHEREOF, the parties have executed this agreement hereto, upon the date first above written.

<b>STATE OF CALIFORNIA</b>	<b>CONTRACTOR</b>
AGENCY <b>California Tahoe Conservancy</b>	CONTRACTOR ( <i>If other than an individual, state whether a corporation, partnership, etc.</i> ) <b>County of El Dorado</b>
BY: <b>Patrick Wright</b> Executive Officer	BY: <b>Chairman</b> 330 Fair Ln., Placerville, CA 95667

Amount ENCUMBERED BY THIS DOCUMENT \$108,976	PROGRAM/CATEGORY (CODE AND TITLE)		FUND TITLE		<b>Department of General Services Use Only</b>
	(OPTIONAL USE)				
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$ 1,103,800	ITEM	CHAPTER	STATUTE	FISCAL YEAR	
TOTAL AMOUNT ENCUMBERED TO DATE \$ 1,212,776	OBJECT OF EXPENDITURE (CODE AND TITLE)				
<i>I hereby certify, upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.</i>		T.B.A. NO.	B.R. NO.		
SIGNATURE OF ACCOUNTING OFFICER X			DATE		

CONTRACTOR       STATE AGENCY       DEPT. OF GEN. SER.       CONTROLLER

2. Exhibit A, the Conservancy's staff recommendation containing the Conservancy's resolution of April 24, 1998, is amended through the addition of Exhibit A-5, the Conservancy's staff recommendation and resolution of September 30, 2009.

3. The final date for submittal of invoices as set forth in Paragraph 4 – Costs and Disbursements, is amended as follows:

<u>Funding Increment:</u>	<u>Final Invoice Date for This Funding Increment</u>
<b>\$ 166,034.65</b>	<b>June 30, 2011</b>
<b>\$ 108,976.00</b>	<b>June 30, 2012</b>

4. Exhibit B, the estimated Project Schedule is amended through the addition of Exhibit B-5, the Revised Estimated Project Schedule and Budget.

5. All other terms and conditions of the original Agreement numbered CTA-97014 shall remain unchanged and in full force and effect.

EXHIBIT B-5  
REVISED PROJECT BUDGETS AND PROJECT SCHEDULE

**Cascade**

REVISED ACQUISITION BUDGET

<b>Budget Category</b>	<b>Amount</b>
Acquisitions	\$604,954.68
<b>TOTAL BUDGET</b>	<b>\$604,954.68</b>

REVISED ACQUISITION PROJECT SCHEDULE

<b>Deliverable</b>	<b>Completion date</b>
Appraisal of remaining property	Summer 2008
Transaction documents, easement negotiations	October 2009
Close of Escrow	December 31, 2009

**Silvertip**

REVISED ACQUISITION BUDGET

<b>Budget Category</b>	<b>Amount</b>
Acquisitions	\$330,811.99
<b>TOTAL BUDGET</b>	<b>\$330,811.99</b>

All acquisition deliverables are complete.

**Angora Creek SEZ**

REVISED ACQUISITION BUDGET

<b>Budget Category</b>	<b>Amount</b>
Acquisitions	\$194,363.96
<b>TOTAL BUDGET</b>	<b>\$194,363.96</b>

All acquisition deliverables are complete.

**Woodland/Tamarack/Lonely Gulch**

**REVISED ACQUISITION BUDGET**

<b>Budget Category</b>	<b>Amount</b>
Acquisitions	\$82,645.37
<b>TOTAL BUDGET</b>	<b>\$82,645.37</b>

All acquisition deliverables are complete.

## **CASCADE EROSION CONTROL PROJECT**

**Summary:** Staff recommends that the Board authorize a grant augmentation of up to \$120,000 to El Dorado County for acquisition of interests in real property for the Cascade Erosion Control Project.

**Location:** El Dorado County Assessor Parcel Numbers 018-340-01 and 018-340-03, located in the Cascade Properties subdivision on the southwest shore of Lake Tahoe, in El Dorado County (Attachment 1).

**Fiscal Summary:** The proposed action would entail disencumbrance of \$113,821.32 in Proposition 50 funds currently authorized for the Angora 3 Erosion Control Project, and to reallocate and reencumber the same funds for the acquisition component of the Cascade Erosion Control Project. In addition, \$6,178.68 in Proposition 12 funds remaining from a separate acquisition grant to El Dorado County will be shifted to the Cascade project. In total, the reallocated funds will provide an additional \$120,000 to complete acquisitions for the Cascade Erosion Control Project. There is no commitment of new funding.

**Recommended Action:** Adopt Resolution 09-09-03 (Attachment 2).

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### **Background**

In April 1998 and March 1999, the Conservancy Board authorized site improvement and acquisition grants to El Dorado County (County) to carry out the Cascade Erosion Control Project (Project); the authorizations totaled just under \$1,600,000. The project area is located near the southwest shore of Lake Tahoe in El Dorado County, just south of Cascade Creek, between State Route 89 and the Lake (Attachment 1). The project was designed to address soil erosion and sediment deposition from stormwater runoff originating in a 100-acre area within the Cascade Properties and Tallac Manor Properties subdivisions. Given the site's location on the shore of the Lake and the significant erosion problems that existed in the project area, there was broad support for the project from public agencies within the Basin.

The project improvements were constructed in the summer of 2002 using a combination of private and public funds; because the streets in these subdivisions are privately owned, the Cascade homeowners and the County partnered on the project. The Conservancy provided grant funds totaling \$1,110,984 for site improvements and \$489,800 for acquisition of interests in real property. Funding from Caltrans amounted to \$381,298, and Tahoe Regional Planning Agency (TRPA) Water Quality Mitigation funds covered \$144,811 in project costs. The Cascade homeowners contributed over \$200,000 toward the cost of construction, and are currently providing \$12,950 per year to the County for maintenance of the improvements.

### **Project Description**

At the time the project was implemented, the County was unable to complete acquisition of two needed easements in the project area because the parcels that comprise the project site were undergoing an internal boundary line adjustment. In lieu of the easements, while the boundary line adjustment was pending, the property owners executed a recorded Right of Entry in favor of the County in May 2002, to allow construction of project improvements, including a large infiltration basin, on the property. This Right of Entry was predicated on the County's purchase of the easements at a later date.

The internal boundary line adjustment was resolved in 2007. Thereafter, in 2008, the County completed an appraisal of the easements which, pursuant to the terms of the Right of Entry, established a fair market value for the easement as of June 26, 2002 (during project construction). Because the acquisition funding was part of the Conservancy grant, Conservancy staff reviewed and approved the appraisal, as required by the Conservancy's acquisition grant agreement.

However, the County's ability to complete the acquisition has been impeded, both by the recent State freeze on disbursements of bond funds, and by a shortfall in the grant funds designated for acquisition purposes. The shortfall resulted from the fact that the Project improvements affect access to one of the reconfigured parcels created through the boundary line adjustment, necessitating additional compensation to the owner of that parcel. In addition, the amount of County staff time required to complete this transaction has exceeded original estimates, owing to the number of owners and length of time that it has taken to complete the boundary line adjustment and resolve ownership-related questions. In order to complete the acquisition of the remaining easements, the County is requesting an additional \$120,000 in Conservancy funding. Staff recommends the acquisition grant be augmented with up to \$120,000 in funding from Proposition 12 and 50 bond funds.

If authorized, this augmentation will be accomplished, in part, by disencumbering \$113,821.32 in Proposition 50 bond funds from the Angora 3 Erosion Control Project (Angora 3), and transferring those same funds to the grant agreement for the Cascade acquisitions. Savings are available from Angora 3 where project costs came in under original estimates, including both acquisition costs (due to project changes), and site improvements (because of the very favorable construction bid climate in the summer of 2008). The reencumbrance of the bond funds to the Cascade project will therefore be consistent with the intent of the current restrictions on the use of bond funds, i.e., to allow the completion of an existing, high-priority project, without any net increase in authorized bond activity.

In addition, the County staff has requested permission to shift \$6,178.68 in Proposition 12 funds (\$188.01 from the Silvertip Erosion Control Project acquisition grant, \$5,636.04 from the Angora Creek Stream Environment Zone Project acquisition grant, and \$354.63 from the Woodland/Tamarack/Lonely Gulch Erosion Control Project acquisition grant) to the Cascade Erosion Control Project acquisition grant. The acquisitions for all of these projects are funded under a single grant agreement (CTA-97014). Consistent with the Board policies, this allows administrative flexibility to shift funds from one project budget to the other if sufficient funds are available within the overall limit of the grant agreement. Since acquisitions are complete for Silvertip, Angora Creek SEZ, and Woodland/Tamarack/Lonely Gulch, these Proposition 12 funds are available to be shifted.

Given the current situation surrounding use of bond funds, Conservancy staff consulted with representatives from the Natural Resources Agency and the Department of Finance. Both were supportive of the recommended action because it can be carried out within the bond fund allocations and limitations currently in place (by moving excess funds from four previously authorized projects, Angora 3, Silvertip, Angora Creek SEZ, and Woodland/Tamarack/Lonely Gulch to another previously authorized project, Cascade), and will enable the Conservancy to complete and close out the grant contract for the Cascade project.

**Project Budget**

Activity	Current Budget	Proposed Augmentation	Revised Budget
Acquisitions	\$489,800	\$120,000	\$609,800



## **Project Schedule**

The easement acquisitions are scheduled to close escrow on or before December 31, 2009, completing the final step of the project.

## **Project Implementation**

If the Board approves this recommendation, staff will amend the existing agreements between the Conservancy and El Dorado County for the Cascade and Angora 3 projects, to reflect the shift in funds from one project to the other. It should be noted that minor changes in the project budget and schedule may occur; however, such changes will not exceed the amount authorized by the Board.

## **Consistency with the Conservancy's Enabling Legislation**

Implementation of this project is consistent with the Conservancy's enabling legislation. Specifically, Government Code sections 66905.2 and 66907.7 authorize the Conservancy to award grants to local public agencies, State agencies, federal agencies, federally recognized Indian tribes, the Tahoe Transportation District, and nonprofit organizations for purposes consistent with its mission and objectives, which include the control of soil erosion control into Lake Tahoe.

## **Compliance with the California Environmental Quality Act (CEQA)**

Pursuant to State CEQA Guidelines (Cal. Code Regs., title 14, § 15000 et seq.), agencies must consider the effects of their discretionary actions on the environment. Once an agency has determined that an activity is a project subject to CEQA, the agency shall determine whether the project is exempt from CEQA. Cal. Code Regs., title 14, § 15061(a). A project is exempt from CEQA if the project is exempt by statute, the project is exempt pursuant to a categorical exemption, or where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Cal. Code Regs., title 14, §§ 15061(b)(1)-(3).

Staff has evaluated this grant funding, and has found it to be exempt under CEQA. Because the proposed discretionary action merely changes the type of interest the County will have in the land, and does not alter, change, or restart any portion of the completed erosion control project, there is no possibility that the action will cause a significant effect on the environment. No changes will occur to the completed project. Accordingly, this project is exempt from CEQA analysis pursuant to State CEQA Guidelines, section 15061, subd. (b)(3). A Notice of Exemption (NOE) has been drafted for the grant funding (Attachment 3). If the Board approves the funding, staff will file

the NOE with the State Clearinghouse pursuant to State CEQA Guidelines, section 15062.

**List of Attachments:**

Attachment 1 – Location Map

Attachment 2 – Resolution 09-09-03

Attachment 3 – Notice of Exemption

**Conservancy Staff Contact:**

Penny Stewart

Phone: (530) 543-6013

## **Attachment 2**

California Tahoe Conservancy  
Resolution  
09-09-03  
Adopted: September 30, 2009

### **CASCADE EROSION CONTROL PROJECT**

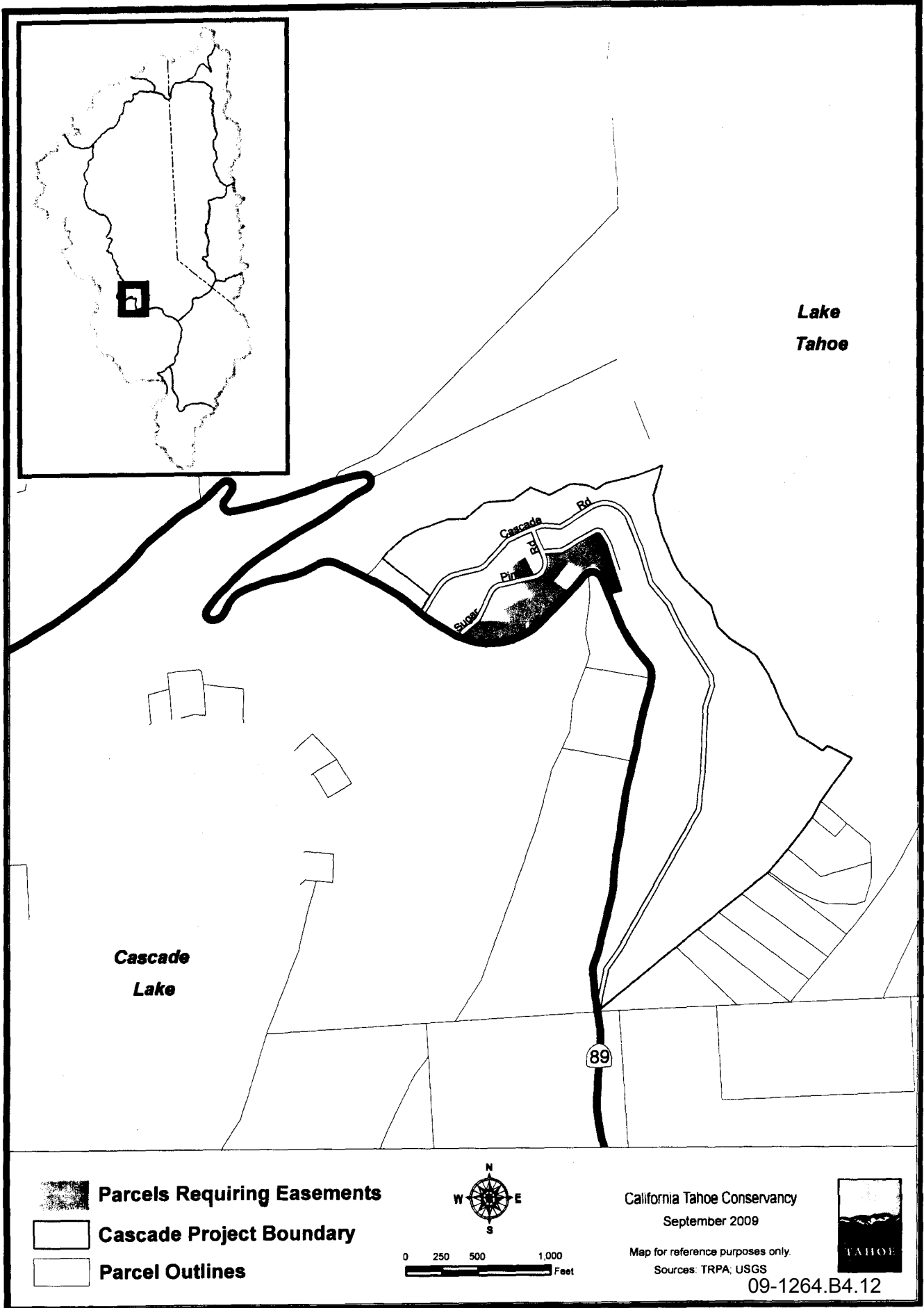
Staff recommends the California Tahoe Conservancy make the following finding based on the accompanying staff report pursuant to Public Resources Code Section 21000 et seq.:

"The California Tahoe Conservancy has evaluated the Cascade Erosion Control Project and has determined the grant of funding for the acquisition of interests in real property for this project to be exempt from CEQA. The Conservancy hereby directs staff to file a Notice of Exemption for this project with the State Clearinghouse.

"The California Tahoe Conservancy hereby authorizes staff to enter into a standard agreement and take all other necessary steps, subject to the provisions and conditions discussed in the accompanying staff report and attachments, in order to fund up to \$120,000 for the acquisition of interests in real property for the Cascade Erosion Control Project.

"The award of the acquisition grant and disbursement of funds is conditioned upon a commitment, by resolution and through execution of a standard agreement, by El Dorado County to undertake the project in a manner consistent with the purposes and scopes of the grant, to monitor the effectiveness of the project, and to manage and maintain the project for the 20 year term of the grant agreement."

**Attachment 1**  
**Cascade Erosion Control Project**



**Attachment 3**

**NOTICE OF EXEMPTION**

TO: Office of Planning and Research  
1400 10th Street, Room 121  
Sacramento, CA. 95814

FROM: California Tahoe Conservancy  
1061 Third Street  
South Lake Tahoe, CA. 96150

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***Project Title:***

Cascade Erosion Control Project

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***Project Location – Specific:***

El Dorado County Assessor Parcel Numbers 018-340-01 and 018-340-03, located in the Cascade Properties subdivision on the southwest shore of Lake Tahoe in El Dorado County

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***Project Location – City:***

Unincorporated area

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***Project Location – County:***

El Dorado County

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***Description of Nature, Purpose, and Beneficiaries of Project:***

A grant augmentation of up to \$120,000 to El Dorado County to complete two easements for the previously constructed Cascade Erosion Control Project.

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***Name of Public Agency Approving Project:***

California Tahoe Conservancy (Conservancy meeting of 9/30/2009) (Agenda Item 8a)

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***Name of Person or Agency Carrying Out Project:***

El Dorado County

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***Exempt Status:***

- Ministerial (§ 21080 (b)(1); § 15268)
- Declared Emergency (§ 21080 (b)(3); § 15269 (a))
- Emergency Project (§ 21080 (b)(4); § 15269 (b)(c))
- X Exemption. § 15061(b)(3).

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***Reasons Why Project is Exempt:***

Because the discretionary action merely changes the *type* of interest the County has in the land, and does not alter, change, or restart any portion of the completed erosion control project, there is no possibility that the action will cause a significant environmental impact. No changes will occur to the completed project. Accordingly, this project is exempt from CEQA analysis pursuant to CEQA Guidelines § 15061(b)(3).

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***Contact Person:***

Penny Stewart

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***Telephone Number:***

(530) 543-6013

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***Date Received for Filing:***



Patrick Wright  
Executive Director