

**CALENDAR ITEM  
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**PROPOSED AMENDMENT TO THE MEMORANDUM OF  
UNDERSTANDING/CONSERVATION AGREEMENT TO ENSURE THE  
CONSERVATION OF A STATE ENDANGERED PLANT SPECIES, THE TAHOE  
YELLOW CRESS, LOCATED EXCLUSIVELY AT LAKE TAHOE, PLACER AND EL  
DORADO COUNTIES.**

**PARTY:**

California State Lands Commission  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202

**BACKGROUND:**

Tahoe yellow cress (*Rorippa subumbellata* Roll.) is a rare plant species endemic to the shores of Lake Tahoe in California and Nevada. It was listed as endangered by the State of California in 1982 (California Fish and Game Code 2050 *et seq.*) and is considered endangered throughout its range by the California Native Plant Society. Tahoe yellow cress is state-listed as critically endangered in Nevada (Nevada Revised Statutes 527.270 *et seq.*), and is considered threatened by the Northern Nevada Native Plant Society. It is classified as a candidate species for listing under the federal Endangered Species Act of 1973, as amended (64 FR 57533).

Previous evidence suggested the threat to the number of sites occupied by Tahoe yellow cress is primarily due to:

- 1) alterations in lake level dynamics caused by construction and operation of the Truckee River outlet dam and reservoir;
- 2) destruction of actual and potentially suitable habitat by the construction of piers, jetties, and other structures;
- 3) high levels of recreational activity associated with beaches and dunes;

4) disturbance of the sand by public and private property maintenance activities;  
and

5) possibly random environmental events.

Because of the threats facing the species, a task force, composed of the agencies listed below, was formed to develop and implement a Conservation Strategy (CS) for the Tahoe yellow cress. The CS is coupled with a Memorandum of Understanding (MOU)/Conservation Agreement (CA), and was signed by the State Lands Commission in 2002 along with the other signatory agencies listed below. Implementation of the CS/MOU demonstrated the commitment of all involved to the long-term protection of the species. The State Lands Commission has been an integral part of the conservation and protection of Tahoe yellow cress and this role continues to be reflected in the CS.

The following entities have been committed to the implementation of the CS and are signatory to the MOU/CA: Tahoe Regional Planning Agency, U.S. Fish & Wildlife Service, U.S. Forest Service, Nevada Division of Forestry, Nevada Division of State Lands, Nevada Division of State Parks, Nevada Natural Heritage Program, California State Lands Commission, California Department of Fish & Game, California Department of Parks & Recreation, California Tahoe Conservancy, Tahoe Lakefront Owners' Association, and League to Save Lake Tahoe.

Since implementation of the CS in 2002, great strides have been made in the conservation of the species. The agencies have continued annual lake-wide surveys of Tahoe yellow cress and have produced annual reports (2002 to 2009) on the status of the plant around the lake. Extensive scientific research has occurred including successful outplanting and transplanting the plants at many sites around Lake Tahoe; experimental designs testing survivorship along varying beach profiles; genetic studies of the plant to understand the metapopulation of the species; public outreach efforts; establishing protective policies among agencies for shorezone projects (e.g., shorezone revetment and pier projects); and, developing site-specific information sheets on all known occupied Tahoe yellow cress sites around the lake.

Presently, the U.S. Fish & Wildlife Service is requesting the signatory parties to approve a modification to the MOU/CS to allow more effective adaptive management of the species. The State Lands Commission's continued responsibilities under the MOU/CA and proposed amendment will not require any more staff or resources than is already provided for the conservation of Tahoe

yellow cress. The MOU/CA outlines the CSLC's continued participation in and commitment to the Adaptive Management Working Group, formerly the Technical Advisory Group, and Executive Committee. The proposed amendment would modify the MOU/CA allowing that any changes to the CS can be made by mutual verbal consent of the Executive Committee rather than written consent of the parties. This modification will provide more flexibility in the implementation of the CS from an adaptive management perspective. The State Lands Commission staff would continue to oversee the successful implementation of the CS, ensure protective measures where the State Lands Commission has jurisdiction, and work with private landowners through education and stewardship.

**OTHER PERTINENT INFORMATION:**

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15261), the staff has determined that this activity is exempt from the requirements of CEQA because it involves a feasibility or planning study for possible future action, which the Commission has not approved, adopted, or funded.

Authority: Public Resources Code section 21102 and Title 14, California Code of Regulations, section 15262.

2. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**REFERENCES:**

- A. Conservation Strategy for Tahoe Yellow Cress. August 2002.

**EXHIBITS:**

- A. Memorandum of Understanding/Conservation Agreement. August 2002.
- B. Proposed Amendment to the Memorandum of Understanding/Conservation Agreement. February 2010.

**IT IS RECOMMENDED THAT THE COMMISSION:**

1. Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a statutorily exempt project pursuant to Public Resources Code section 21102 and Title 14, California Code of Regulations, section 15262, feasibility or

planning study for possible future action which the Commission has not approved, adopted, or funded.

2. Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.
3. Authorize the Executive Officer to sign, on behalf of the Commission, the amendment to the Memorandum of Understanding/ Conservation Agreement that would modify language that would provide making any modifications to the Conservation Strategy be by mutual verbal consent of the Executive Committee rather than mutual written consent by the parties.