

Scott Carey

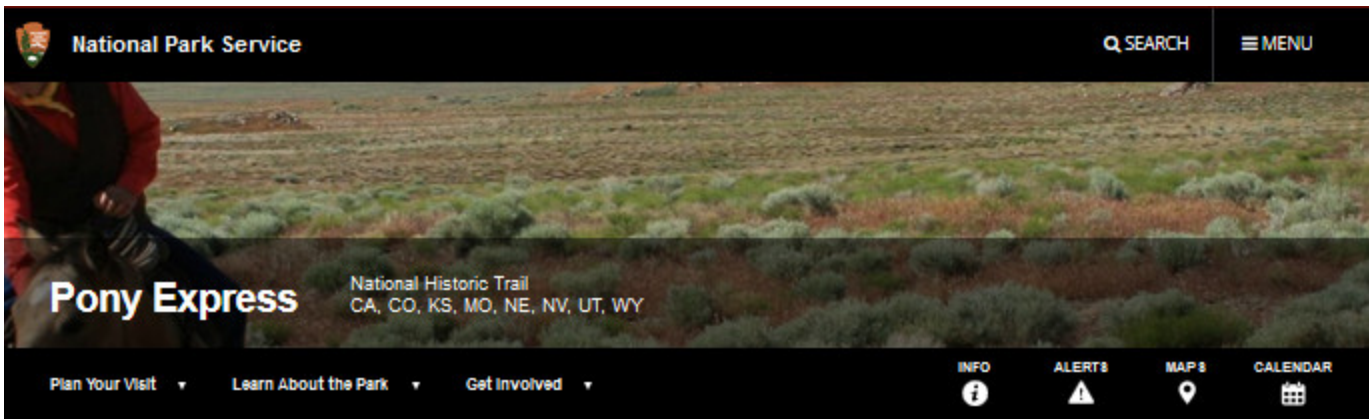
From: Edwin Bustillos <edwin.bustillos@pressmail.ch>
Sent: Wednesday, November 2, 2022 8:53 PM
To: Scott Carey
Subject: NTRPA GB Meeting # (3) Public Comment — Thursday, Nov 3, 2022 at 2:00 PM
Attachments: Pony Express.pdf; Pony Express_EA.pdf

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Dear NTRPA Governing Board,

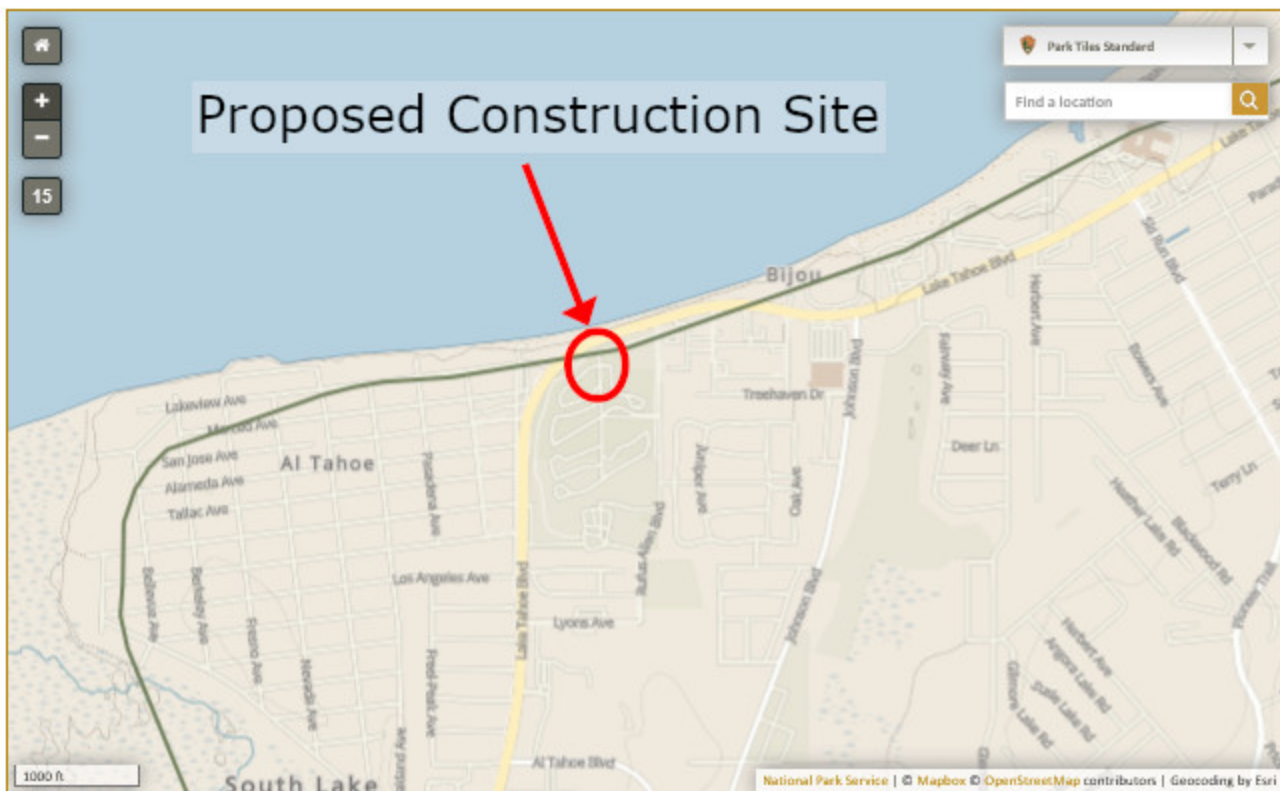
I oppose the siting of this lakeside indoor waterpark and the "Special Use Permit" required to build it in that specific location.

I further oppose the City of South Lake Tahoe's conclusory CEQA/NEPA negative declaration to the "Bijou/Al Tahoe Community Plan 'Amendment'-'Plan'-'Agreement'" which was a thinly-veiled piecemeal-review of the larger 56-Acres Development Plan. This amendment would not have been proposed "but for" the planned construction of a flat-roofed "industrial building" next to a federally sanctioned (23 U.S.C. § 162(b)(1)(iv)) state scenic highway ([S&H Code § 263.4](#); [PRC § 21084\(c\)](#)) on an otherwise undeveloped bluff with spectacular and irreplaceable views of Lake Tahoe and famous historical significance requiring review under the [state](#) and National Historic Preservation Acts (54 U.S.C. §§ 300101-320303; PRC §§ 5020 *et seq.*):



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Point of CEQA/NEPA's "connected actions doctrine" is to prevent government from segmenting its own actions into separate projects and thereby failing to address true scope and impact of activities that should be under consideration. An agency impermissibly segments CEQA/NEPA review when it divides connected, cumulative, or similar actions into separate projects and thereby fails to address the true scope and impact of the activities that should be under consideration. Doctrine of segmentation prevents agencies from dividing one project into multiple individual actions each of which individually has an insignificant environmental impact but which collectively have a substantial impact. Simple, conclusory statements of no impact are not enough to fulfill an agency's duty under CEQA/NEPA (*C.f., Delaware Riverkeeper Network v.*

F.E.R.C., 753 F.3d 1304, 1313 (2014). See also, *Fund For Animals v. Hall*, 448 F.Supp.2d 127 (2006); *Indian Lookout Alliance v. Volpe*, 484 F.2d 11 (1973)). "When actions will have cumulative or synergistic environmental impact upon a region and are pending concurrently before an agency, their environmental consequences must be considered together under National Environmental Policy Act" (NEPA) (quoting *Hammond v. Norton*, 370 F.Supp.2d 226 at 245 (2005)). An agency's CEQA decision is improper if the agency has relied on factors which the Legislature or Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.

Naturally, do not relocate the El Dorado Beach Campground Restrooms. The only reason that decision was before you was because of the Rec Center. This was really just an unethical piecemeal decision to approve the larger project in a very controversial location. Such a huge decision should not be made under the pretext of a restroom relocation. What if it were decided after the city council election to place the facility on the footprint of the existing aquatics center? Then the restrooms would be in a very inconvenient location. A large project should not be approved in individual pieces, and this part ought to be the last of our concerns.

Please add this letter and the attached Pony Express NEPA documentation to the record of this matter.

Respectfully Submitted,

Edwin Bustillos