December 26, 2017

John Laird, Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Mr. John Laird,

In accordance with the State Leadership Accountability Act (SLAA), the California Tahoe Conservancy submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2017.

Should you have any questions please contact Kevin Prior, Chief Administrative Officer, at (530) 543-6016, kevin.prior@tahoe.ca.gov.

BACKGROUND

The California Tahoe Conservancy (Conservancy) is a State Agency within the Resources Agency of the State of California. It was established in its present form by State law in 1984 (Chapter 1239, Statutes of 1984). Its jurisdiction extends only to the California side of the Lake Tahoe Basin. The Conservancy is not a regulatory agency. The mission of the Conservancy is to lead California’s efforts to restore and enhance the extraordinary natural and recreational resources of the Lake Tahoe Basin.

The Conservancy has the authority to achieve its objectives directly or through award of grants to local public agencies and nonprofit organizations. The Conservancy is governed by a board with seven voting members and one ex-officio member. The Board hires the Executive Director who oversees the staff in accordance with the direction of the board. The powers and duties of the Conservancy Board are detailed in Title 7.42 (commencing with Section 66905) of the Government Code.

ONGOING MONITORING

As the head of California Tahoe Conservancy, Patrick Wright, Executive Director, is responsible for the overall establishment and maintenance of the internal control and monitoring systems.

EXECUTIVE MONITORING SPONSOR(s)

The executive monitoring sponsor responsibilities include facilitating and verifying that the California Tahoe Conservancy internal control monitoring practices are implemented and functioning as intended. The responsibilities as the executive monitoring sponsor(s) have been given to: Kevin Prior, Chief Administrative Officer.

MONITORING ACTIVITIES

The Conservancy monitoring activities are conducted by each department and include specific activities dependent on duties. Each department reports specific activities directly to supervisors and managers. Examples of monitoring activities to ensure internal control systems are working as intended may include:
• Information systems firewall testing
• Accounting systems transaction walkthrough for cash receipts and accounts payable to ensure proper segregation of duties
• Human resource employee duty statement review to actual work performed
• Legal analysis of ongoing lease and license agreements
• Natural resource monitoring on owned lands for required maintenance and needed land improvements

The Director, Deputy Director, Chief Administrative Officer (CAO), Chief Information Officer, Legal Counsel, and Natural Resource Program Manager meet regularly to discuss significant Conservancy-wide internal control systems. The Conservancy started the monitoring process by identifying risks and then ranking each risk based on the severity and likelihood of occurrence.

**ADDRESSING VULNERABILITIES**

The processes used to address vulnerabilities of internal control systems is dependent upon the nature of the risk. Vulnerabilities identified through control agency assessments, reviews, and audits are documented through corrective action plans. The corrective action plans identify the weakness and lay out tasks and dates to correct vulnerabilities. Conservancy department vulnerabilities are identified, ranked, and prioritized based on internal assessments throughout the year. Issue checklists are compiled at a staff level and presented to senior staff for review and action. The issue checklists identify vulnerabilities and contain recommended actions and timelines that can be carried out by staff.

**COMMUNICATION**

The monitoring roles, activities, and results are communicated through several administrative tools that include duty statements and internal policies. Both the duty statements and internal policies identify which employee serves critical Conservancy roles. Internal policies also provide guidance on expectations and what activities should be conducted throughout the organization. Management communicates monitoring activities and results through department meetings. The Conservancy conducts two ongoing meetings that provide opportunities to communicate monitoring activities and results throughout the organization. The first is a weekly Senior Staff meeting that includes all senior department heads. The second is a monthly staff meeting. The monthly staff meeting includes all Conservancy employees. Both meetings provide opportunities for direct communication to department heads and all staff on monitoring activities and results.

**ONGOING MONITORING COMPLIANCE**

The California Tahoe Conservancy is in the process of implementing and documenting the ongoing monitoring processes as outlined in the monitoring requirements of California Government Code sections 13400-13407. These processes include reviews, evaluations, and improvements to the California Tahoe Conservancy systems of controls and monitoring.

**RISK ASSESSMENT PROCESS**

The following personnel were involved in the California Tahoe Conservancy risk assessment process: Executive Management, Middle Management, Front Line Management, and Staff.

**Risk Identification**

The Conservancy’s Director, Deputy Director, Chief Administrative Officer (CAO), Chief Information...
Officer, Legal Counsel, and Natural Resource Program Manager meet regularly to identify and discuss significant Conservancy-wide risks. The Conservancy started the risk assessment process by identifying risks and then ranking each risk based on the severity and likelihood of occurrence.

**Risk Ranking**

Once the risks were identified and ranked, the CAO identified the controls which serve to mitigate the risks. Some controls are in place and other controls are in the process of being implemented. The CAO and staff discussed the effectiveness of the controls in place. These conversations about controls allow the Conservancy to determine if new controls are needed or if improvements are needed to existing controls. The CAO and executive team’s testing of controls involved a combination of staff interviews, and document and process reviews. The executive team implemented control updates based on testing results.

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**Risks and Controls**

**Risk: Operations - External - Litigation**

The Conservancy is subject to actual and possible legal action by outside parties in response to Conservancy actions.

The Conservancy has a workforce composed of state employees, local jurisdiction employees, and contract consultants. This varied workforce mix may create inefficient and cumbersome supervisory rules. The workforce must follow separate but complementary employment and contracting rules.

This employment legal risk requires the Conservancy to assign job duties to the workforce based on the contractual relationship. Job assignments and reporting may cause confusion between managers, supervisors, employees, and consultants.

To mitigate employment legal risk the Conservancy employs a full time Human Resource employee. The State of California Cal HR department audits the Conservancy for compliance with delegated authority on a planned three year cycle.

**Control A**

To mitigate employment legal risk the Conservancy employs two full time lawyers that provide legal counsel on employment litigation and human resources actions. To mitigate employment legal risk the Conservancy employs a full time Human Resource employee. The State of California Cal HR department audits the Conservancy for compliance with delegated authority on a planned three year cycle. The Conservancy contracts with the State of California’s attorney general’s office for independent counsel on employment risk. The controls provide oversight and legal opinions to remain compliant with employment laws. The controls are existing.

**Risk: Operations - External - Funding — Sources, Levels**

Fiscal resources used to finance State of California and Conservancy objectives may be reduced, discontinued or difficult to obtain in the future. Two areas at risk are:
The Tahoe Conservancy is the State of California’s primary implementer for the Lake Tahoe Environmental Improvement Program (EIP). Funding for the EIP program is a shared responsibility among the federal, state, and local governments in the Lake Tahoe Basin. The expected Federal share of $300 million requires the states of California and Nevada to collectively match these appropriations. Nevada’s share of the EIP has been secured through the recent passage of a $100 million bond act. California’s match target is $200 million. The Conservancy to date has received $15 million directly from Proposition 1 to meet the $200 million target. The State of California risks not meeting commitments towards EIP due to depletion of available bond funds. In addition, California may miss the opportunity to leverage a $200 million commitment with $400 million from federal and State of Nevada partners.

Secondly, the Conservancy owns and manages more than 6,500 acres of land, mostly comprised of small parcels scattered throughout the California side of the Basin. These parcels provide open space, recreation and water quality benefits, and have significantly reduced the level of development in the Basin. The land management budget baseline for these parcels was last adjusted over ten years ago. Costs associated with typical maintenance activities have increased, but State COLA’s made to the Conservancy's management budget have not kept up with inflation. A maintenance regime must be established, on approximately a ten-year interval, in order to maintain the effectiveness of fuels reduction and forest restoration activities. Without additional investment by the State of California the previous land maintenance and fuels reduction efforts on Conservancy parcels will not be adequately maintained.

**Control A**

The Conservancy mitigates the risk by requesting an additional $100 million from various special revenue allocations, and another $100 million from future bonds and/or cap and trade funding. If the Conservancy is successful in securing these additional funding sources California would meet commitments towards the Lake Tahoe EIP and leverage $400 million in federal and State of Nevada monies. The Conservancy will also request additional baseline land management funding to: 1) cover the increased cost for maintaining its property inventory; 2) provide maintenance and security services at public access facilities; and 3) continue maintenance work required to provide an effective, fire safe forest adjoining thousands of residences in the Basin. The control is existing.

**Risk: Operations -Internal-Staff—Safety**

Staff safety is a risk due to the dangerous conditions presented by the nature of the work performed by Conservancy employees. The Conservancy owns and maintains approximately 5,000 acres of natural habitat in the Lake Tahoe Basin. This land requires a workforce that can properly maintain and improve the natural resources for the State of California. Natural Resource Agency employees are required to work outside on uneven terrain, in variable weather, among habitats of wild animals, changing landscapes, and power tools. These work elements pose potential loss to life, limbs, and physical wellbeing. The risk affects the Conservancy by limiting certain types of work to employees with proper certification, training, and job duty statements. The risk also requires the Conservancy to contract duties to qualified professionals or other state agencies.

**Control A**

The Conservancy has developed and maintains an Injury and Illness Prevention Plan (IIPP) that is intended to provide a safe and healthy workplace for its employees. The IIPP implements the policy and establishes a framework for identifying, communicating, and correcting hazards within the workplace, and to assist managers, supervisors and employees in conducting their work and business in a safe and healthy manner. The Conservancy’s IIPP is implemented with separate health and safety policies and procedures (i.e., ergonomics, defensive driver, and equipment operation) and regular
health and safety training.

**Risk: Operations -External-Fraud, Theft, Waste, Misconduct, Vandalism**
The Conservancy has a risk of damage or loss of property through trespass and encroachment, and offhighway vehicle use on state-owned lands. Conservancy-owned property is adjacent to homeowners and recreational users that may not recognize the restrictions placed on state owned property. The risk affects the Conservancy by limiting use of state property and maintaining a program of logging, documenting, and following up with private land owners on unauthorized use of state-owned property.

**Control A**
The Conservancy employs a lot inspector. All Conservancy land is inspected on a bi-annual basis. Trespass and encroachments on state-owned property are documented through photos and site surveys. Disputed property lines are surveyed to establish state ownership rights. The use of a lot inspector mitigates the risk of trespass and encroachments. The lot inspector is able to actively resolve trespass and encroachment issues early in the process and minimize legal disputes.

**Control B**
The Conservancy is developing a land management plan. The plan will set policies and procedures for employees and the public on permitted uses of state owned land. The plan will serve as a management control to prevent misconduct, natural resource waste, and incompatible uses on state-owned lands. The control is new.

The risk is a mismanagement of fiscal resources due to individual leave balance liabilities greater than the state allowed balance of 640 hours. This risk affects the Conservancy by committing a disproportionate amount of fiscal resources to a few individual employees. The risk also restricts available Conservancy funding to salary and benefit costs instead of being used for operating and project costs.

**Control A**
The Conservancy mitigates the risk through yearly employee leave balance reduction plans. Each employee over 640 hours submits a plan to the Conservancy to reduce the leave balance below 640 hours. The control mitigates the risk by requiring the employee and supervisor to actively manage the leave balance and reduce the fiscal liability to the Conservancy.

**Risk: Compliance-Internal-Staff Adherence to Policies, Procedures, or Standards**
Conservancy employees are required to adhere to policies and procedures that comply with Federal, State, and Local rules and regulations. Staff may perform duties in a way that does not ensure full compliance due to the complex nature of the rules and regulations.

**Control A**
The efficient operation of the Conservancy is dependent upon the establishment of rules and regulations that govern operations and employees. At the Conservancy, Policy Letters ensure the most recent regulations and standards are incorporated into an organized, uniformly formatted Conservancy policy. As such, Policy Letters are to be maintained in the Conservancy Policy Manual or accessible electronically. All Policy Letters are to be reviewed annually. The Policy Letter Coordinator shall conduct periodic audits to ensure the Policy Manual is current.
**Risk: Compliance-External-Complexity or Dynamic Nature of Laws or Regulations**

The Conservancy is subject to the Americans with Disabilities Act (ADA) because it is the owner of property and improved facilities that provide access for the public. ADA regulations in California require renovated or new public facilities to accommodate individuals with disabilities. ADA regulations are complex, difficult to interpret, and can change with court rulings. The risk of non-compliance with ADA regulations requires the Conservancy to consult with architects and contractors on California Building Standards Code when managing or improving land and facilities.

**Control A**

The Conservancy contracted with a Department of General Services ADA consultant to complete a site survey of property and facilities compliance. The Conservancy has received the report and is developing a property-wide policy manual. After adoption of the policy manual the Conservancy will implement a transition plan to maintain compliance with ADA laws.

**Risk: Operations-Internal-Oversight, Monitoring, Internal Control Systems**

The Conservancy does not provide sufficient oversight over major capital outlay improvement projects once DGS takes over the implementation. Although the Conservancy monitored project progress through regular meetings, progress reports, and site visits and inspections during construction, it did not consistently review or monitor project expenditures for DGS managed projects. Specifically, the Conservancy approves the transfer of bond funds to the architecture revolving fund and receives periodic updates on the remaining balance. However, the Conservancy does not consistently receive detailed information from DGS as to how bond funds are being expended. Therefore, the Conservancy cannot monitor project costs to ensure they are project related. Further, neither the Conservancy nor DGS document any continuous ongoing monitoring of project consultants to ensure they stay within project scope.

Because of the potential monetary impact of any major capital outlay project misappropriation, it is critical that as the project owner and sponsor, the Conservancy continuously remain apprised of project expenditures while the project is in progress. Equally important is monitoring the consultants to ensure projects stay within scope and are completed timely.

While DGS manages major capital outlay projects per California Public Contract Code section 10107, per Executive Order, the Conservancy is accountable for ensuring that Bond proceeds are expended in a manner consistent with the provisions of the Bond Act. Additionally, the Conservancy’s Accountability Plan requires project expenditures be spent according to the approved project scope. The Plan also requires written progress reports for all projects.

Additionally under minor capital outlay projects the Conservancy does not have adequate processes and procedures to effectively manage its minor capital outlay projects. Specifically, the Conservancy did not enforce contract terms, did not properly review the supporting documentation for project costs, and did not have adequate procedures to measure whether outputs and outcomes were achieved.

**Control A**

Work collaboratively with DGS to develop, document, and implement policies and procedures to define the oversight roles and responsibilities of the Conservancy and DGS for managing major capital outlay projects. These policies and procedures should include sharing of pertinent information to allow the Conservancy to fulfill its obligations under the Executive Order pertaining to bond funds.
Control B
Develop, document, and implement policies and procedures for managing minor capital outlay projects to ensure:

- Documentation is available to support all required deliverables and actual costs incurred.
- Contract language requires supporting documentation for all required deliverables.

Risk: Operations - Internal - Oversight, Monitoring, Internal Control Systems
The Conservancy does not have sufficient procedures to monitor its grant projects. For all five grants reviewed, the Conservancy could not provide any documentation of its project monitoring activities (i.e., site visits, progress reports, and close-out site visits). As a result, the Conservancy could not demonstrate that it monitored its grant projects to ensure grantees stayed within the scope of the agreement. Without proper grant monitoring activities, grant funds would be at risk of not achieving its intended outcomes. Sufficiently written procedures would allow grant managers to clearly understand their roles and responsibilities, ensure consistency, and provide proper monitoring of grant projects. Per its Bond Accountability Plan, the Conservancy required progress reports, and that Conservancy staff conduct in-progress site visits, and final report and close-out field visits at the time the project is complete.

Control A
Develop and implement procedures to clearly define grant monitoring activities, roles and responsibilities of grant managers, and timelines.

Control B
Ensure scope and budget adjustments are properly approved and documented.

Control C
Develop post close-out monitoring requirements. The grant contract language should specify a documented post close-out project monitoring plan and require grantees to maintain supporting documentation for all required deliverables and project outcomes.

Risk: Reporting - External - Information Communicated—Adequacy, Accuracy, Interpretation, Timeliness
Per the Public Resources Code (PRC) sections 75070.5 and 75072, the Conservancy is allowed 5 percent of the allocation for administration and 10 percent for planning and monitoring. The Conservancy heavily relies on CFS and the California Natural Resources Agency to monitor their costs for administering the bond proceeds. As a result, they could not explain the discrepancy between what was reported as their total bond support expenditures and what is corroborated by the accounting records. Moreover, the Conservancy has not indicated how they track the 10 percent planning and monitoring allocation per the Bond Act. Without sufficient policies and procedures, the Conservancy would be at risk of exceeding the allowable 5 percent administration and 10 percent planning and monitoring threshold. Per the Executive Order, the Conservancy is accountable for ensuring that Bond proceeds are expended in a manner consistent with the provisions of the Bond Act. This includes being responsible for properly tracking its administration costs and planning and monitoring costs.
CONTROL A
Develop and implement policies and procedures to ensure the allowable 5 percent for administration and 10 percent for planning and monitoring is tracked and supported.

CONTROL B
Ensure information published on the Bond Accountability website reconciles to internal records.

CONCLUSION
The California Tahoe Conservancy strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising controls to prevent those risks from happening. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Patrick Wright, Executive Director

CC: California Legislature [Senate (2), Assembly (1)]
   California State Auditor
   California State Library
   California State Controller
   Director of California Department of Finance
   Secretary of California Government Operations Agency