COUNTY OF PLACER
Community Development Resource Agency

Michael J. Johnson, AICP
Agency Director

PLANNING SERVICES DIVISION

E.J. Ivaldi, Deputy Director

HEARING DATE: June 25, 2015
ITEM NO.:
TIME: CONSENT ITEM

TO: Placer County Planning Commission

FROM: Development Review Committee

DATE: June 4, 2015

SUBJECT: **CABIN CREEK BIOMASS FACILITY**
EXTENSION OF TIME – CONDITIONAL USE PERMIT (PCPJ20110376)
PREVIOUSLY CERTIFIED ENVIRONMENTAL IMPACT REPORT
SUPERVISORIAL DISTRICT 5 (MONTGOMERY)

GENERAL PLAN: Placer County General Plan

GENERAL PLAN DESIGNATION: Agriculture/Timberland – 80 Acre Minimum

ZONING: FOR-SP (Forest, combining Special Purpose)

ASSESSOR'S PARCEL NUMBER: 080-070-016-000

STAFF PLANNER: Gerry Haas, Senior Planner

LOCATION: The site is located approximately two miles south of Interstate 80 (I-80) and the Town of Truckee at 900 Cabin Creek Road, 0.30 miles west of State Route (SR) 89.

APPLICANT: Tahoe Regional Power Company, LLC.

PROPOSAL: The applicant is requesting a three-year Extension of Time for this Conditional Use Permit (CUP) that was approved to allow for the construction and operation of a two-megawatt (MW) biomass electric power generation facility at the Eastern Regional Materials Recovery Facility (MRF) and Transfer Station.

CEQA COMPLIANCE: The Planning Commission originally approved the proposed project on December 20, 2012. As part of that action the Planning Commission certified a Final Environmental Impact Report (EIR) for the project. No changes have occurred in the project or to existing circumstances that would warrant additional environmental analysis for the Extension of Time request. The Planning Commission must make a finding to this effect.

PUBLIC NOTICES AND REFERRAL FOR COMMENTS:
A 15-day notice of requested extension (Section 17.58.160(C)(2)) was mailed to property owners of record within 300 feet of the project site, and to all parties who submitted comment on the original proposal. Community Development Resource Agency staff and the Departments of Public Works, Environmental Health, Air Pollution Control District and Granite Bay Municipal Advisory Council (MAC) were transmitted copies of the Extension of Time application for review and comment. No comments have been received.

BACKGROUND:
The Cabin Creek Biomass Facility project was approved to allow for the construction and operation of a two-megawatt (MW) electric power generation facility at site of the Eastern Regional Materials Recovery Facility (MRF) and Transfer Station. The facility would utilize gasification technology to convert woody biomass material into a synthesis gas, which would then fuel an internal combustion engine/generator that would produce electricity.

The project was approved to be located on a 3.7-acre site in the southernmost portion of a 148-acre County-owned parcel that is adjoined on the north and west by three other County-owned parcels. The four parcels collectively include 292 acres developed with the Eastern Regional Materials Recovery Facility (MRF) and Transfer Station. The property also includes a former landfill site (approximately 65 acres in size) that was closed and buried in 1995. With the on-site landfill being unavailable for disposal, the MRF and Transfer Station now function to separate, process and deliver recyclable solid wastes to the open market and (in cases of non-recyclable materials) to the Lockwood Regional Landfill in Nevada.

The Cabin Creek Biomass Facility project was considered by the Planning Commission at its December 20, 2012 meeting. After considering staff's report and recommendation, which included a discussion of issues that were mentioned in a comment letter submitted by the Center for Biological Diversity, the Planning Commission adopted a motion (7-0, all Commissioners present) to certify the Final Environmental Impact Report and approve the Mitigation Monitoring and Reporting Plan. The Planning Commission also approved the requested entitlement, a Conditional Use Permit to allow for the construction of a biomass electric power generating facility. In reaching this decision, the Planning Commission found that the Project is consistent with the goals and policies in the Placer County General Plan and the provisions of the Placer County Zoning Ordinance, that the project is compatible with the existing and surrounding development of the Cabin Creek site, and the FEIR is complete, adequate and in full compliance with CEQA.

A third-party appeal was filed on December 28, 2012 by Kevin Bundy, on behalf of the Center for Biological Diversity. The appeal challenges the Planning Commission certification of the Final Environmental Impact Report and approval of the Conditional Use Permit for the Cabin Creek Biomass Facility project.

On May 7, 2013, the Board of Supervisors denied the Appeal, accepted five new, staff-proposed Conditions of Approval to address key issues outlined in the appeal, re-certified the project EIR and upheld the Planning Commission's decision by approving the CUP.

Placer County, as the original applicant and underlying land owner, has secured a private partner to develop the biomass energy facility. Phoenix Energy DBA Tahoe Regional Power Company, LLC, is now the project applicant.

PROJECT DESCRIPTION:
The applicant requests a three-year Extension of Time (EOT) to prevent the expiration of the project. Condition 61 of the Conditional Use Permit states the following:

> "The applicant shall have 24 months to exercise this Conditional Use Permit. Unless exercised or extended through approval of an Extension of Time application, this Conditional Use Permit (PCPJ20110376) shall expire on May 7, 2015."

This request, if approved, would allow an additional three years to the expiration date for the project, extending the exercise date to May 7, 2018.

DISCUSSION OF ISSUES:
This request for an Extension of Time (EOT) was submitted because the project Improvement Plans and Building Permit have not been issued as of the original expiration date of May 7, 2015. As stated in the EOT request application, the applicant has been unable to secure a Power Purchase Agreement with the local energy provider. Without the agreement, the project cannot proceed. The negotiations with the energy provider have stalled, and resolution of the electric power purchase price could take several months.

Pursuant to Article 17.58.160(C), the applicant submitted the EOT request prior to the original expiration date, ensuring the CUP remains valid until a decision regarding its exercise date can be rendered by the Planning Commission. A stated above, the requisite 15-day EOT notification was sent to all interested parties, agencies, departments and original commenters on the project. No objections to the EOT request, and no comments relative to it were submitted to Planning Services Division, as set forth in the notification.

Staff supports this request because the applicant has been diligent in pursuing implementation of the permit (securing a power purchase agreement can be a long and difficult process, particularly for biomass facilities) and no changes have occurred to the project or to existing circumstances that would warrant additional environmental analysis for the EOT request. The Development Review Committee has modified the conditions of approval to reflect a two-year extension of time to exercise the permit.

RECOMMENDATION:
The Development Review Committee recommends that the Planning Commission approve the three-year Extension of Time request and modify the Conditions of Approval as recommended by staff.

FINDINGS (Extension of Time):
CEQA
A project Environmental Impact Report was prepared for the project and certified by the the Board of Supervisors on May 7, 2013. No changes have occurred to the project or to existing circumstances that would warrant additional environmental analysis for the extension of time request.

Extension of Time
1. No change of conditions or circumstances has occurred with the Cabin Creek Biomass Facility project that would have been grounds for denying the original application.

2. The applicant has been working diligently to complete its improvement plans and building permit requirements for the project. This constitutes diligence in pursuit of the project.

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3. There have been no significant changes to Cabin Creek Biomass Facility project since the Board of Supervisors approval on May 7, 2013. Modified conditions have been prepared which reflect current adopted standards and ordinance requirements and the projects new expiration date of May 7, 2018.

Respectfully submitted,

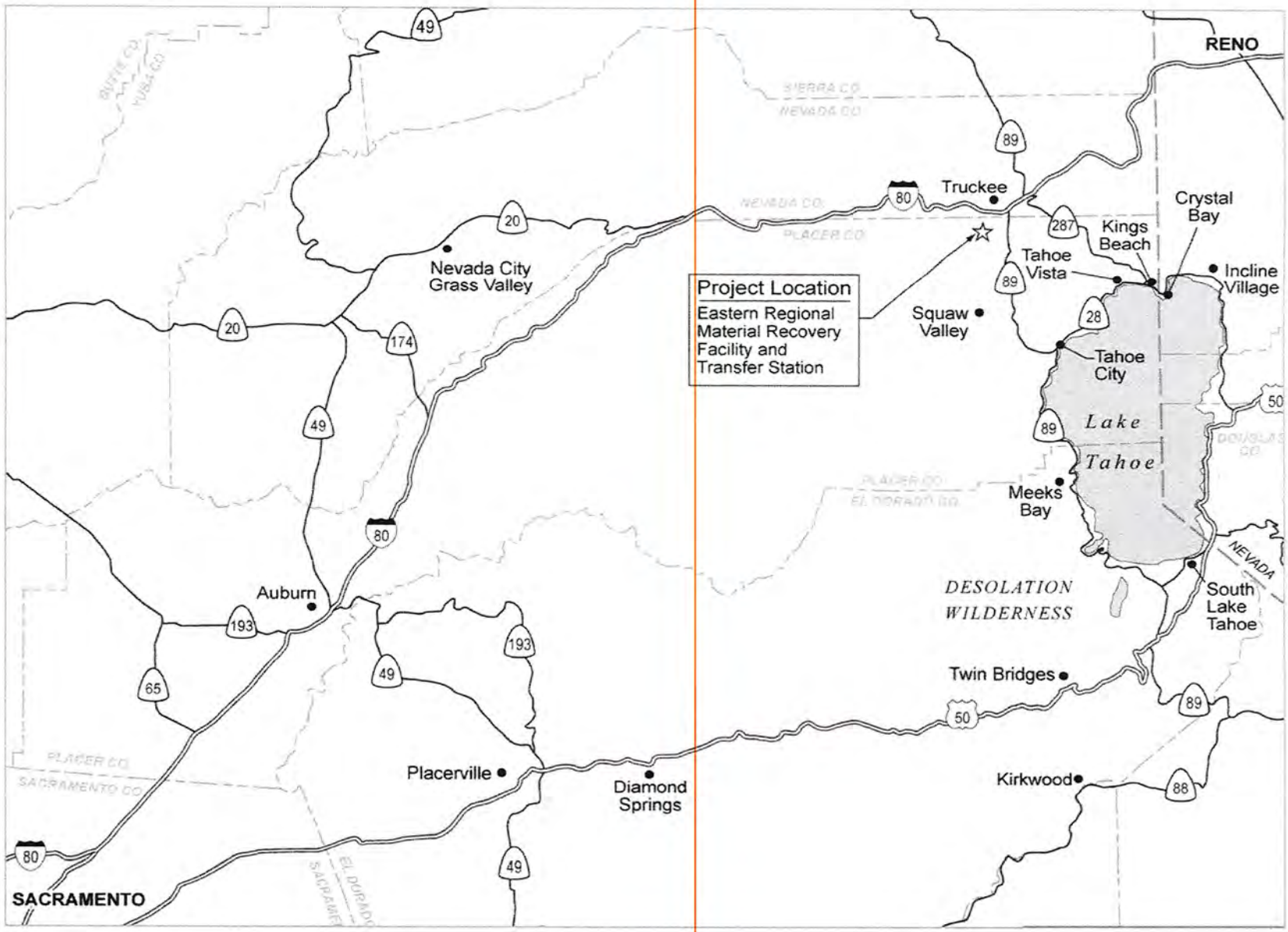
Gerry Haas
Senior Planner

ATTACHMENTS:

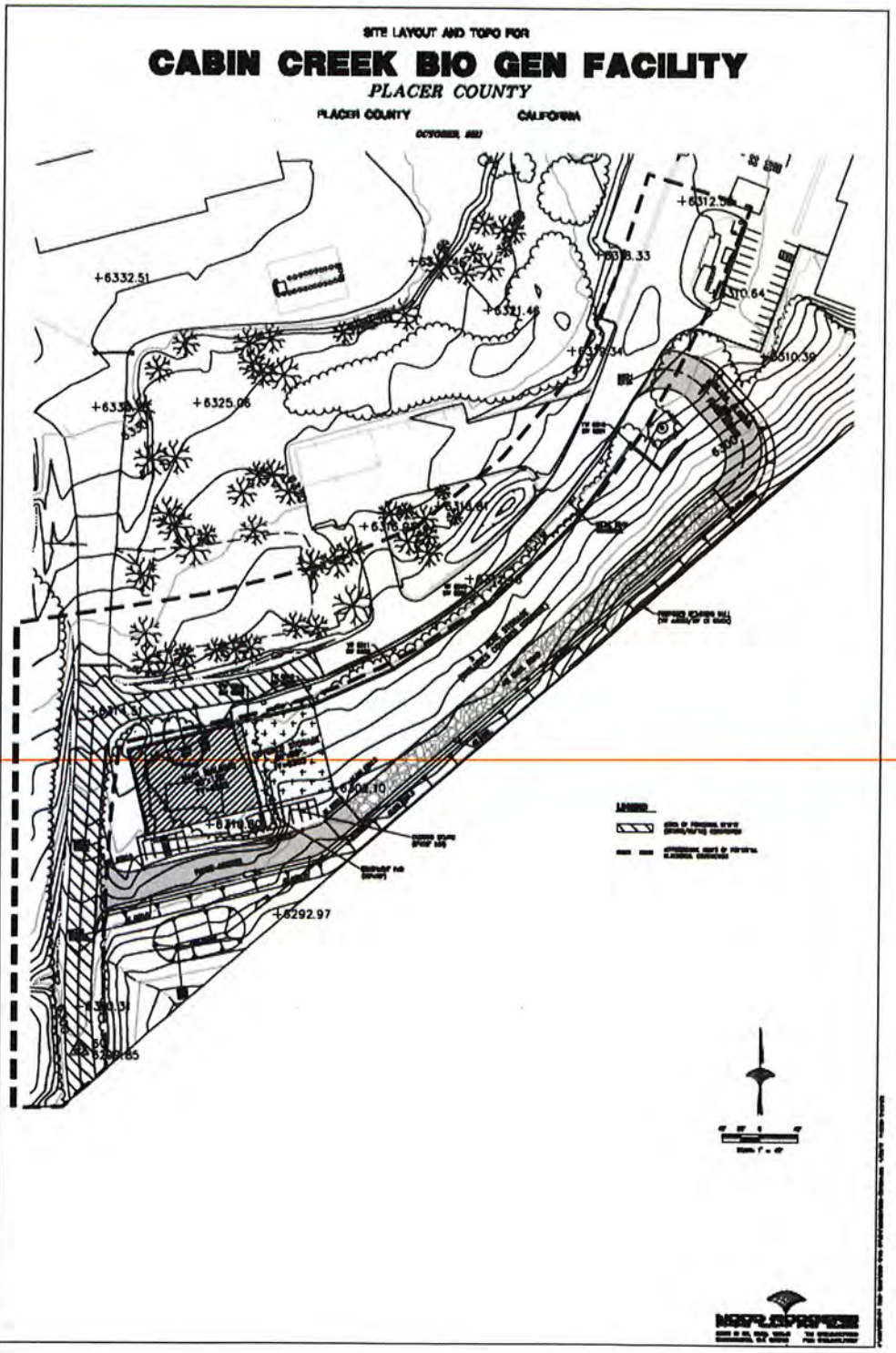
Attachment A - Vicinity Map
Attachment B - Reduced Copy of Site Plan
Attachment C - Recommended Modifications to Conditions of Approval

cc: Tahoe Regional Power Company, LLC – Applicant
Brett Storey – Senior Management Analyst
Sarah Gillmore – Engineering and Surveying Department
Stephanie Holloway – Department of Public Works
Janelle Heinzler – Special Districts
Justin Hansen – Environmental Health Services
Angel Green – Air Pollution Control District
David Boesch – Placer County Chief Executive Officer
Karin Schwab – County Counsel's Office
Rob Sandman – County Counsel's Office
Michael Johnson – CDRA Director
Paul Thompson – Deputy Planning Director
George Rosasco – Supervising Planner
Subject file

Vicinity Map



ATTACHMENT A



ATTACHMENT B

RECOMMENDED CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT - "CABIN CREEK BIOMASS FACILITY" (PCPJ 20110376)

THE FOLLOWING CONDITIONS SHALL BE SATISFIED BY THE APPLICANT, OR AN AUTHORIZED AGENT. THE SATISFACTORY COMPLETION OF THESE REQUIREMENTS SHALL BE DETERMINED BY THE DEVELOPMENT REVIEW COMMITTEE (DRC), COUNTY SURVEYOR, AND/OR THE PLANNING COMMISSION.

1. This Conditional Use Permit (PCPJ 20110376) is approved to allow for the construction and operation of a two megawatt wood-to-energy biomass facility on APN 080-070-016. The facility shall process a maximum of 17,000 equivalent Bone Dry Tons (BDT) of biomass material annually.
   On June 25, 2015 the Planning Commission approved a three-year Extension of Time. (Conditions 1 and 61 were modified.)

2. The Cabin Creek Biomass Facility shall accept only woody biomass material (fuel) that would have otherwise been piled and burned in its place of origin. For purposes of this condition, the term "woody biomass material" is defined and limited to the following:
   a. Hazardous fuels reduction residuals (woody biomass material that poses a substantial fire threat to human or environmental health),
   b. Forest thinning and harvest residuals (residual material from ongoing forest management activities that has no, or limited, market value), and
   c. Clean wildland/urban interface (WUI)-sourced waste materials (small trees, limbs, brush and trimmings) resulting from defensible space clearing projects.

The woody biomass materials may be accepted by the contracted hauler to the facility from either public or private lands subject to the following standards and limitations:

Public Lands: Woody biomass shall be accepted only if prior written documentation is presented to the hauler that the biomass was collected and piled pursuant to a project approved by all appropriate agencies following full compliance with NEPA and/or CEQA and all other applicable laws. A record of the approval decision and copies of the NEPA/CEQA documents (if applicable) shall be produced prior to collection by the contracted hauler to the facility. The documents shall include written proof that the material would have been piled and burned in the open if not procured as biomass fuel. If the approval documents are finalized prior to the plant commencing operation and there is no language in the same regarding open burning, the plant may accept the woody biomass with

written verification from the approving agencies or USFS that the material otherwise would have been piled and burned in the open.

Private Property: Woody biomass collected from a "Defensible Space Clearance Project" may be accepted by the plant. A "Defensible Space Clearance Project" means an activity designed to clear defensible space from the area immediately surrounding a residence or occupied structure as required or recommended by applicable CALFIRE guidelines or local ordinances and regulations. The private property owner shall verify in writing that the woody biomass would have otherwise been open burned. Verification may be in the form of prior burn permits obtained from the local Air Pollution Control District, provided such burn permits were issued after the later of (i) February 9, 2012, or (ii) the effective date of any subsequent amendment to applicable Air Pollution Control District rules or other local ordinances or rules governing open burning.

3. The applicant shall accept woody biomass deliveries only from contractors with prior written executed agreements with the applicant (or operator of the facility) or haulers who have existing written agreements with a local, state or federal agency (the latter shall be required to file a copy of the agreement with the applicant before beginning deliveries) or directly from local, state or federal agency haulers.

   Each hauler shall present a County-prepared form executed and dated by each owner or manager of the property that is the source of the woody biomass contained in that hauler's truck. Said form shall require the following information: source location, property owner or manager contact information, estimated volume/weight, date of pick up and a written certification executed by the property owner (or manager) that the woody biomass otherwise would have been piled and open burned in the place of origin if not sent to the facility. If the hauler transports from multiple locations, the hauler shall obtain a form from each location.

   If the hauler does not produce the required form(s), the applicant (or facility operator) shall turn the hauler away and not permit any of the fuel in the truck to be deposited at the facility.

4. No woody biomass material shall be accepted at the facility directly from a private property owner.

5. The following materials shall not be utilized as fuels for the Cabin Creek Biomass Facility:
   a. Materials initially processed at the Eastern Regional Materials Recovery Facility/Transfer Station at Cabin Creek.

b. Materials from urban sources, including but not limited to clean construction/demolition waste and tree trimmings.
c. Any materials not meeting the definitions set forth in Condition 2.

6. On or before February 16, 2016, and at five-year intervals thereafter, the County shall review and update the Fuel Procurement Plan for the Lake Tahoe Basin Biomass Energy Generation Facility (TSS Consultants Feb. 16, 2011) ("Fuel Procurement Plan"). Such review shall include, but not necessarily be limited to, the following:
   a. An evaluation of the accuracy and comprehensiveness of the Fuel Procurement Plan with respect to actual availability of biomass materials,
   b. An updated evaluation of current demand for biomass materials from any other proposed, new, or existing facilities that may obtain fuels and/or feedstocks from within the Core Fuel Supply Area,
   c. An updated assessment of the amount and sources of biomass materials meeting all Conditions of Approval for the Cabin Creek Biomass Facility that are expected to be available within the subsequent five-year period.

7. Prior to proposing any changes or amendments to these Conditions of Approval, the County shall give at least 45 days' notice to any interested individual or organization, including those who submitted comments during the environmental review process for this Conditional Use Permit (PCPJ 20110376)

8. Monitoring and Enforcement:
   a. The applicant (or operator of the facility) shall record and maintain daily information logs sufficient to identify the source of each delivery of woody biomass. This information shall include: source location, estimated volume/weight and date for all incoming loads of biomass material to the site.
   b. Executed County-prepared forms collected from the haulers shall be maintained together with the name of the person or company responsible for processing and transporting the biomass fuel to the facility.
   c. By January 31 of each calendar year, the applicant (or operator) shall prepare a report disclosing the characteristics and qualities of all woody biomass delivered to and processed at the facility for the previous calendar year. The information provided in the report shall be sufficiently detailed to allow verification of compliance with all conditions of approval. A copy of said report shall be lodged with the Placer County Community Development/Resources Agency no later than January 31 of each calendar year.
   d. All of the above information shall be considered public records.

e. All of the above shall be maintained by the applicant (or operator of the facility) for a five year period.

f. The Placer County Board of Supervisors may, at its discretion, require the report generated in subsection c. be reviewed by the Planning Commission during a public hearing for any given year.

g. The Placer County Board of Supervisors may, at its discretion and for any length of time, appoint a volunteer committee to review or monitor the biomass procurement, processing and/or delivery processes to ensure compliance with the conditions of approval.

9. The improvement plans for this project are subject to review and approval by the Placer County Development Review Committee (DRC) to ensure project consistency with the mitigation measures established in the Environmental Impact Report, and with the County Code. Such a review and approval shall be conducted prior to site disturbance. In addition to standard infrastructure, utilities and facilities, the improvement plans shall include, but not be limited to, plans for: landscaping; irrigation; signs; exterior lighting; pedestrian and vehicular circulation; parking; fences, walls and building materials. **(PSD)**

IMPROVEMENTS/IMPROVEMENT PLANS

10. The Applicant shall ensure that exterior lighting installed at the facility will conform to an approved lighting plan. The exterior lighting plan shall be prepared prior to the issuance of a building permit, and submitted to the County with the project Improvement Plans for approval. Exterior lighting shall be limited to lighting required for safe operations and security purposes. The exterior lighting plan will require at a minimum the following:

a) Identification of location of lighting, height, and positioning of all light fixtures, and type and style of light fixtures;

b) Lighting shall be directed downward using fully shielded fixtures or fixtures otherwise designed to prevent light trespass or projection of light above the horizontal, except as needed for safe operations and security;

c) The height of light poles shall be limited to 20 feet except as needed for operational and safety purposes. Light fixtures are not to exceed the height of adjacent structures.

Ground level illumination levels shall not exceed two foot candles at the project property line.

(PSD MM 7-3)

11. The applicant shall prepare and submit Improvement Plans, specifications and cost estimates (per the requirements of Section II of the Land Development Manual [LDM]

that are in effect at the time of submittal) to the County for review and approval. The plans shall show all physical improvements as required by the conditions for the project as well as pertinent topographical features both on and off site. All existing and proposed utilities and easements, on site and adjacent to the project, which may be affected by planned construction, shall be shown on the plans. All landscaping and irrigation facilities within the public right-of-way (or public easements), or landscaping within sight distance areas at intersections, shall be included in the Improvement Plans. The applicant shall pay plan check and inspection fees (NOTE: Prior to plan approval, all applicable recording and reproduction cost shall be paid). The cost of the above-noted landscape and irrigation facilities shall be included in the estimates used to determine these fees. It is the applicant's responsibility to obtain all required agency signatures on the plans and to secure department approvals. If the Design/Site Review process and/or Development Review Committee (DRC) review is required as a condition of approval for the project, said review process shall be completed prior to submittal of Improvement Plans. Record drawings shall be prepared and signed by a California Registered Civil Engineer at the applicant's expense and shall be submitted to the County in both hard copy and electronic versions in a format to be approved by the County prior to acceptance by the County of site improvements.

Conceptual landscape plans submitted prior to project approval may require modification during the Improvement Plan process to resolve issues of drainage and traffic safety.

Any Building Permits associated with this project shall not be issued until, at a minimum, the Improvement Plans are approved by the County.

Prior to the County's final acceptance of the project's improvements, submit to the County two copies of the Record Drawings in digital format (on compact disc or other acceptable media) in accordance with the latest version of the Placer County Digital Plan and Map Standards along with two blackline hardcopies (black print on bond paper) and two PDF copies. The digital format is to allow integration with Placer County's Geographic Information System (GIS). The final approved blackline hardcopy Record Drawings will be the official document of record. **(MM 13-1a) (ESD)**

12. The Improvement Plans shall show all proposed grading, drainage improvements, vegetation and tree removal and all work shall conform to provisions of the County Grading Ordinance (Ref. Article 15.48, Placer County Code) and Stormwater Quality Ordinance (Ref. Article 8.28, Placer County Code) that are in effect at the time of submittal. No grading, clearing, or tree disturbance shall occur until the Improvement Plans are approved and all temporary construction fencing has been installed and inspected by a member of the Development Review Committee (DRC). All cut/fill slopes shall be at a maximum of 2:1 (horizontal: vertical) unless a soils report supports a steeper slope and the County concurs with said recommendation. Fill slopes shall not exceed 1.5:1 (horizontal: vertical)

The applicant shall revegetate all disturbed areas. Revegetation, undertaken from April 1 to October 1, shall include regular watering to ensure adequate growth. A winterization plan shall be provided with project Improvement Plans. It is the applicant's responsibility to ensure proper installation and maintenance of erosion control/winterization before, during, and after project construction. Soil stockpiling or borrow areas, shall have proper erosion control measures applied for the duration of the construction as specified in the Improvement Plans. Provide for erosion control where roadside drainage is off of the pavement, to the satisfaction of the County.

The applicant shall submit to the County a letter of credit or cash deposit in the amount of 110 percent of an approved engineer's estimate for winterization and permanent erosion control work prior to Improvement Plan approval to guarantee protection against erosion and improper grading practices. Upon the County's acceptance of improvements, and satisfactory completion of a one-year maintenance period, unused portions of said deposit shall be refunded to the project applicant or authorized agent.

If, at any time during construction, a field review by County personnel indicates a significant deviation from the proposed grading shown on the Improvement Plans, specifically with regard to slope heights, slope ratios, erosion control, winterization, tree disturbance, and/or pad elevations and configurations, the plans shall be reviewed by the DRC/County for a determination of substantial conformance to the project approvals prior to any further work proceeding. Failure of the DRC/County to make a determination of substantial conformance may serve as grounds for the revocation/modification of the project approval by the appropriate hearing body. **(MM 13-1b) (ESD)**

13. Staging Areas: The Improvement Plans shall identify the stockpiling and/or vehicle staging areas with locations as far as practical from existing dwellings and protected resources in the area. **(ESD)**

14. The Improvement Plans shall show that water quality treatment facilities/Best Management Practices (BMPs) shall be designed according to the guidance of the California Stormwater Quality Association Stormwater Best Management Practice Handbooks for Construction, for New Development / Redevelopment, and for Industrial and Commercial (or other similar source as approved by the County such as the Stormwater Quality Design Manual for the Sacramento and South Placer Regions.

Storm drainage from on- and off-site impervious surfaces (including roads) shall be collected and routed through specially designed catch basins, vegetated swales, vaults, infiltration basins, water quality basins, filters, etc. for entrapment of sediment, debris and oils/greases or other identified pollutants, as approved by the County. BMPs shall be designed at a minimum in accordance with the Placer County Guidance Document for Volume and Flow-Based Sizing of Permanent Post-Construction Best Management Practices for Stormwater Quality Protection. No water quality facility construction shall be

permitted within any identified wetlands area, floodplain, or right-of-way, except as authorized by project approvals.

All BMPs shall be maintained as required to insure effectiveness. The applicant shall provide for the establishment of vegetation, where specified, by means of proper irrigation. Proof of on-going maintenance, such as contractual evidence, shall be provided to the County upon request. Maintenance of these facilities shall be provided by the project owners/permittees unless, and until, a County Service Area is created and said facilities are accepted by the County for maintenance Contractual evidence of a monthly parking lot sweeping and vacuuming, and catch basin cleaning program shall be provided to the County upon request. Failure to do so will be grounds for discretionary permit revocation. Prior to Improvement Plan or Final Subdivision Map approval, easements shall be created and offered for dedication to the County for maintenance and access to these facilities in anticipation of possible County maintenance. **(MM 13-1d) (ESD)**

15. Prior to Improvement Plan approval, the applicant shall obtain a State Regional Water Quality Control Board National Pollutant Discharge Elimination System (NPDES) construction stormwater quality permit and shall provide to the County evidence of a state-issued Waste Discharge Identification (WDID) number or filing of a Notice of Intent and fees. **(MM 13-1e) (ESD)**

16. Prior to Improvement Plan approval, provide the County with a copy of the Lahontan Regional Water Quality Control Board approval or permit. **(ESD)**

17. The Improvement Plan submittal shall include a geotechnical engineering report produced by a California Registered Civil Engineer or Geotechnical Engineer. The report shall address and make recommendations on the following:

a) Road, pavement, and parking area design;
b) Structural foundations, including retaining wall design (if applicable);
c) Grading practices;
d) Erosion/winterization;
e) Special problems discovered on-site, (i.e., groundwater, expansive/unstable soils, etc.)
f) Slope stability

Once approved by the County two copies of the final report shall be provided to the County and one copy to the Building Services Division for its use. It is the responsibility of the developer to provide for engineering inspection and certification that earthwork has been performed in conformity with recommendations contained in the report. **(MM 12-1) (ESD)**

18. The Improvement Plan submittal shall include a drainage report in conformance with the requirements of Section 5 of the Land Development Manual and the Placer County Storm Water Management Manual that are in effect at the time of submittal, to the County for review and approval. The report shall be prepared by a Registered Civil Engineer and shall, at a minimum, include: A written text addressing existing conditions, the effects of the improvements, all appropriate calculations, a watershed map, increases in downstream flows, proposed on- and off-site improvements and drainage easements to accommodate flows from this project. The report shall identify water quality protection features and methods to be used both during construction and for long-term post-construction water quality protection. "Best Management Practice" measures shall be provided to reduce erosion, water quality degradation, and prevent the discharge of pollutants to stormwater to the maximum extent practicable. **(MM 13-1c) (ESD)**

Prior to Improvement Plan approval, provide the County with a letter from the appropriate fire protection agency describing conditions under which service will be provided to this project. A representative's signature from the appropriate fire protection district shall be provided on the Improvement Plans. **(ESD)**

19. The Improvement Plans shall include the message details, placement, and locations showing that all storm drain inlets and catch basins within the project area shall be permanently marked/embossed with prohibitive language such as "No Dumping! Flows to Creek." or other language /graphical icons to discourage illegal dumping as approved by the County. County-approved signs and prohibitive language and/or graphical icons, which prohibit illegal dumping, shall be posted at public access points along channels and creeks within the project area. The project owner is responsible for maintaining the legibility of stamped messages and signs. **(ESD)**

20. The Improvement Plans shall show that all stormwater runoff shall be diverted around trash storage areas to minimize contact with pollutants. Trash container areas shall be screened or walled to prevent off-site transport of trash by the forces of water or wind. Trash containers shall not be allowed to leak and must remain covered when not in use. **(ESD)**

21. The Improvement Plans shall show that materials with the potential to contaminate stormwater that are to be stored outdoors shall be placed in an enclosure such as, but not limited to, a cabinet, shed, or similar structure that prevents contact with runoff or spillage to the stormwater conveyance system, or protected by secondary containment structures such as berms, dikes, or curbs. The storage area shall be paved to contain leaks and spills and shall have a roof or awning to minimize collection of stormwater within the secondary containment area. **(ESD)**

ROADS/TRAILS

22. The Improvement Plans shall show the construction of a public road entrance/driveway onto Cabin Creek to an R-17, Land Development Manual (LDM) standard unless otherwise approved by the County. The design speed of Cabin Creek Road shall be 30 miles per hour (mph), unless an alternate design speed is approved by the Department of Public Works (DPW). The improvements shall begin at the outside edge of any future lane(s) as directed by the DPW and the County. An Encroachment Permit shall be obtained by the applicant from the County. The Plate R-17 structural section within the main roadway shall be designed for a Traffic Index of 6 but said section shall not be less than 3 inches Asphalt Concrete (AC)/8 inches Class 2 Aggregate Base (AB) unless otherwise approved by the County. **(ESD)**

23. Prior to Improvement Plan approval, final approval of on-site and off-site waterline, sewer line, storm drain routes, and road locations must be obtained from the Development Review Committee. **(ESD)**

24. The Improvement Plans shall show that all on-site parking and circulation areas shall be improved with a minimum asphaltic concrete or Portland cement surface capable of supporting anticipated vehicle loadings.

It is recommended that the pavement structural section be designed in accordance with recommendations of a soils/pavement analysis and should not be less than 2-inch Aggregate Concrete (AC) over 4-inch Class 2 Aggregate Base (AB) or the equivalent. **(ESD)**

PUBLIC SERVICES

25. Prior to Improvement Plan approval provide to the Development Review Committee "will-serve" letters from the following public service providers , as required:

a) Liberty Electric
b) Tahoe City PUD

26. Prior to the approval of the plans, provide the County with proof of notification (in the form of a written notice or letter) of the proposed project to:

a) Tahoe Truckee Joint School District
b) The Placer County Sheriff's Office

GENERAL DEDICATIONS/EASEMENTS

27. Provide the following easements/dedications on the plans to the satisfaction of the County:

a) Public utility easements as required by the serving utilities, excluding wetland preservation easements (WPE). **(ESD)**
b) Drainage easements as appropriate. **(ESD)**
c) Provide private easements for existing or relocated water lines, service/distribution facilities, valves, etc., as appropriate. **(ESD)**

VEGETATION & OTHER SENSITIVE NATURAL AREAS

28. a) To reduce the loss of Jeffrey pine forest and protect individual trees on the project site, the Applicant shall conduct a tree survey to determine the number and size of trees to be removed. The number of trees to be removed shall be minimized to the extent feasible.

b) The Applicant shall obtain a tree permit from the County, as per the County's Tree Ordinance. As stated in the Tree Ordinance (12.16.080 Replacement program and penalties), the County may condition any tree permit or discretionary approval involving removal of a protected tree upon (a) the replacement of trees in kind, (b) implementation of a revegetation plan, or (c) payment into the County's Tree Preservation Fund. Because the project site would not support replacement trees or the implementation of a revegetation plan, the Applicant shall either replace trees at an offsite location or contribute to the County's Tree Preservation Fund; this will be determined by the County.

The replacement requirement may be calculated based upon an inch for an inch replacement of the removed tree(s) and may require minimum 15 gallon size trees. The total of replacement trees may be required to have a combined diameter of the tree(s) removed. A minimum of 50% of replacement trees will be of a similar native tree. Replacement trees may be planted onsite or in other areas to the satisfaction of the County Planning Services Division. Such replanting must not result in the over-planting of a site such that an unsafe fire condition is created.

The County may decide that if the project site is not capable of supporting all of the replacement trees, the Applicant shall pay the County the current market value, as established by an arborist, forester, or registered landscape architect, of the replacement trees, including cost of installation, to go into a Tree Preservation Fund.

Before Improvement Plans are approved, the Applicant shall provide proof to the County that one, or a combination, of the mitigation options described above has been

completed and/or funded. Proof of mitigation fulfillment will also be provided to DFG. **(PSD MM 5-2)**

29. To avoid impacts to nesting birds, trees and other vegetation shall be removed from the project site during the non-breeding season (September 1 to March 30) to the extent feasible.

If vegetation removal is scheduled to occur during the nesting season (April 1 to August 31), the Applicant shall retain a qualified biologist to conduct preconstruction surveys in suitable habitat on the project site. The surveys shall be conducted no less than 14 days and no more than 30 days before the beginning of construction. Survey results shall be sent immediately to Placer County Planning Services Division and to the California Department of Fish and Game (CDFG). If active nests are present on or immediately adjacent to the project site, Planning Services Division staff shall initiate consultation with CDFG to determine appropriate avoidance measures.

If no nests are found, no further mitigation is required. **(PSD MM 5-1)**

CULTURAL RESOURCES

30. If an inadvertent discovery of cultural materials (e.g., unusual amounts of shell, animal bone, glass, ceramics, structure/building remains) is made during construction activities at the project site, ground disturbances in the area of the find shall be halted and a qualified professional archaeologist shall be notified regarding the discovery. The archaeologist shall determine whether the resource is potentially significant per the California Register of Historic Resources (CRHR) and CEQA Guidelines Section 15064.5 and will develop appropriate mitigation to protect the integrity of the resource and ensure that no additional resources are affected. Mitigation could include but would not necessarily be limited to preservation in place, archival research, subsurface testing, or contiguous block unit excavation and data recovery. **(PSD MM 6-1)**

31. Before the start of grading and/or excavation, the Applicant shall retain a qualified paleontologist or archaeologist to train all construction personnel involved with earthmoving activities, regarding the possibility of encountering paleontological resources at the site, the appearance and types of paleontological resources likely to be seen during project construction, and proper notification procedures should such resources be encountered.

In the event that paleontological resources are discovered during ground disturbing activities, grading and construction work within 100 feet of the find shall be suspended until the significance of the features can be determined by a qualified professional paleontologist as appropriate. A qualified professional paleontologist shall then make recommendations for measures necessary to protect the find, or to undertake data

recovery, excavation, analysis, and curation of paleontological materials as appropriate. **(PSD MM 6-3)**

32. In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, potentially damaging excavation in the area of the burial shall be halted and the Applicant shall contact the Placer County Coroner and a professional archaeologist to determine the nature and extent of the remains. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands (Health and Safety Code, Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, he or she must contact the Native American Heritage Commission (NAHC) by phone within 24 hours of making that determination (Health and Safety Code, Section 7050[c]).

If the remains are determined to be those of a Native American, then the following shall occur:

a. The (State Historic Preservation Office (SHPO), the Applicant, an archaeologist, and the NAHC-designated Most Likely Descendant (MLD) shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities for acting upon notification of a discovery of Native American human remains are identified in Section 5097.9 of the California Public Resources Code.

b. The SHPO shall ensure that the immediate vicinity (according to generally accepted cultural or archaeological standards and practices) is not damaged or disturbed by further development activity until consultation with the MLD has taken place. The MLD shall have 48 hours to complete a site inspection and make recommendations after being granted access to the site. A range of possible treatments for the remains, including nondestructive removal and analysis, preservation in place, relinquishment of the remains and associated items to the descendants, or other culturally appropriate treatment may be discussed. Assembly Bill (AB) 2641 suggests that the concerned parties may extend discussions beyond the initial 48 hours to allow for the discovery of additional remains. AB 2641(e) includes a list of site protection measures and states that the Applicant shall implement one or more of the following measures:

   i. record the site with the NAHC or the appropriate Information Center,
   ii. utilize an open space or conservation zoning designation or easement, and/or
   iii. record a document with the county in which the property is located.

c. The County or its authorized representative will rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance if the NAHC is unable to identify a MLD, or if the MLD fails to make a recommendation within 48 hours after being granted access to the site. The County may also reinter the remains in a location not subject to further disturbance if the County rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the County. **(PSD MM 6-4)**

FEES

33. This project will be subject to the payment of traffic impact fees that are in effect in this area (Tahoe Resorts Fee District), pursuant to applicable Ordinances and Resolutions. The applicant is notified that the following traffic mitigation fee(s) will be required and shall be paid to Placer County DPW prior to issuance of any Building Permits for the project:

a) County Wide Traffic Limitation Zone: Article 15.28.010, Placer County Code

The actual fees paid will be those in effect at the time payment occurs. **(ESD)**

ENVIRONMENTAL HEALTH

34. Prior to the start of operations the proposed facility will comply with requirements as specified by Placer County Environmental Health, the Local Enforcement Agency (LEA), and of the Department of Resources Recycling and Recovery (CalRecycle) in regards to solid woody biomass handling and storage requirements. **(EHS)**

35. The proposed facility will be available for LEA and/or CalRecycle inspection during normal business hours per Title 14 § 17855(a). **(EHS)**

36. All proposed building construction at the proposed project site will comply with Title 27 § 21190(g). **(EHS)**

37. Contact Environmental Health Services, pay required fees, obtain required permits and approvals and drill an additional public water well, to provide a reliable source of water for the proposed project. A maximum day demand calculation, source capacity testing and water quality testing must be submitted to Environmental Health Services as a part of this approval. This condition must be completed prior to issuance of a Building Permit **(EHS)**

38. The public water system serving the project shall meet all California Code of Regulations and Waterworks Standards. **(EHS)**

39. Prior to final occupancy or use of the additional public water well, contact Environmental Health Services, pay required fees and obtain an amended domestic water supply permit to add a new source to the Eastern Regional Landfill Public Water System. **(EHS)**

40. Submit to Environmental Health Services a "will-serve" letter from the Tahoe City Public Utility District indicating that the district can and will provide sewerage service to the project. The project shall connect the project to this public sewer. **(EHS)**

41. The Applicant shall regularly compact the fuel piles to minimize fire risk in storage piles. The Applicant shall also prepare detailed written procedures for the management of biomass piles to prevent inadvertent combustion and fires, and that minimize vectors, odors, litter, and human contact with, inhalation, ingestion, and transportation of dust, particulates, and pathogenic organisms. The written procedures shall outline the specific measures that would be implemented to reduce the total pile storage area, and to prevent potential pile fires due to spontaneous combustion. The written procedures shall be subject to review and input by the County LEA, PCAPCD, and the Truckee Fire Protection District prior to initiating operations at the site. These measures shall include at a minimum the following:

a) A schedule for periodic and random load checks of incoming biomass truckloads;
b) Restricted public access to the facility (e.g., fencing);
c) Fire prevention, protection, and control measures, including, but not limited to temperature monitoring of piles at least weekly, adequate water supply for fire suppression, and the isolation of potential ignition source from the biomass piles;
d) Fire lanes between piles shall be provided to allow fire control equipment access to all operational areas;
e) Daily visual inspections of the storage piles to observe whether temperature-related effects are occurring (e.g., steam); and
f) Leachate shall be controlled to prevent contact with the public.

As necessary, measures such as moisture management (e.g., wetting), pile aeration, tarping, among others could be implemented to optimally manage the storage piles.
(EHS)(MM16-4)

42. If during site preparation and construction activities, previously undiscovered or unknown evidence of hazardous materials contamination is observed or suspected through either obvious or implied measures (e.g., stained or odorous soil, unknown storage tanks, etc.), construction activities in the area of the find shall immediately cease. Placer County

Environmental Health Division staff shall be immediately consulted and a qualified consultant registered in DTSC's Registered Environmental Assessor Program will be contracted to assess the situation. Based on the assessment, the Applicant shall implement necessary remediation activities including but not limited to removal of soil and debris, treatment of contaminated groundwater, and capping the site prior to development. All required remediation shall include a DTSC Remedial Action Work Plan or equivalent. Based on consultation between the Registered Environmental Assessor and DTSC, remediation of the site shall be conducted consistent with all applicable regulations. **(EHS)(MM 16-1)**

43. Include the following standard note on the Improvement Plans: If at any time during the course of constructing the proposed project, evidence of soil and/or groundwater contamination with hazardous material is encountered, the applicant shall immediately stop the project and contact the Environmental Health Services (EHS) Hazardous Materials Section. The project shall remain stopped until there is resolution of the contamination problem to the satisfaction of EHS and to the Central Valley Regional Water Quality Control Board/ Lahontan Water Quality Control Board. **(EHS)**

44. If Best Management Practices are required by the Engineering and Surveying for control of urban runoff pollutants, then any hazardous materials collected during the life of the project shall be disposed of in accordance with all applicable hazardous materials laws and regulations. **(EHS)**

AIR POLLUTION

45. As indicated in the EIR, biomass material shall be hauled out of USDA forests in chip vans, which have a capacity of 12.5 BDT or 93 cubic yards and forest material would only be recovered from locations that are accessible by chip vans using existing roads. A maximum of 1,360 truckloads (in chip *vans)* are allowed to be delivered per year, or a maximum of 22 chip van truck loads per day. In addition to the large delivery vehicles, smaller biomass material delivery from state and local agency Wildland Urban Interface (WUI) projects and biochar haul out trucks could be used as long as the cumulative air emission based on 1,360 12.5 BDT volume chip vans is not exceeded.

46. A maximum continuous flow of water required by the gasification system would be 10 gallons per minute (gpm), and 14,400 gallons per day (gpd).

47. All forest sourced material used at the facility is required to meet the following fuel specifications:

a) The maximum moisture content for the wood fuel shall be 50 percent by weight. Moisture content prior to consumption must be determined in accordance with the American Society for Testing and Materials (ASTM) specifications and procedures, or equivalent. Should wood fuel be delivered that exceeds 50 percent moisture, it shall be stored onsite for additional drying until such time that the moisture content specification is met.
b) The Higher Heating Value (HHV) of the fuel must be a minimum average of 8,300 British Thermal Units (BTU) per dry pound on an average annual basis. The ash content cannot exceed three percent by dry weight of each delivery. Periodic and representative samples of fuel delivered to the Cabin Creek facility would be collected and tested by a third party testing service, and submitted to the County on an annual basis, to confirm that fuel specifications for heat and ash content are being met. If fuel is delivered that does not meet minimum specifications, the applicant would work directly with fuel suppliers to improve collection and processing procedures to assure that delivered fuel meets specifications. If fuel specifications are not met after repeated attempts to improve fuel quality, then fuel deliveries from non-complying supplier(s) will be discontinued.

48. All "Wildland Urban Interface" (WUI) sourced material used at the facility would be required to meet the following fuel specifications:

a) The maximum moisture content for the wood fuel must be 30 percent by weight. Moisture content with respect to any delivery wood would be determined in accordance with ASTM specifications and procedures, or equivalent. Should wood fuel be delivered that exceeds 30 percent moisture, it would be stored onsite for additional drying until that time that the moisture content specification is met.
b) The Higher Heating Value (HHV) of the fuel must be a minimum of 7,900 BTU per dry pound on an *average* annual basis. The ash content must not exceed four percent by dry weight of each delivery. Periodic and representative samples of fuel delivered to the Cabin Creek facility would be collected and tested by a third party testing *service,* and submitted to the County on an annual basis, to confirm that fuel specifications for heat and ash content are being met. If fuel Is delivered that does not meet minimum specifications, the Applicant would work directly with fuel suppliers to improve collection and processing procedures to assure that delivered fuel meets specifications. If fuel specifications are not met after repeated attempts to improve fuel quality, then fuel deliveries from the non-complying supplier(s) would be discontinued.

49. The Applicant shall not perform any chipping of biomass at the project site.

50. The Applicant shall require haulers who transport biochar from the plant to fully contain all the biochar by *covering* haul trucks or containing the material in closed containers during transport to *prevent* any dust emissions during transport and handling.

51. The Applicant shall prohibit the loader in the fuel yard and diesel trucks that visit the site to idle for more than *five* minutes at the fuel yard, weigh scale, or other areas of the plant. The Applicant shall install a sign that is clearly visible to trucks entering the site that states "Diesel Engine Idling Limited to a Maximum of Five Minutes." The location of this sign shall be clearly demarcated on the building plans.

52. The applicant shall install energy efficient lighting in interior and exterior spaces, including the fuel storage area and the parking lot. In addition, the applicant shall install energy efficient lighting control systems and design buildings to use daylight as an integral part of lighting systems.

53. The applicant shall incorporate additional measures that are consistent with the U.S. Green Building Council's LEED standards in the final project design determined such as low-flow water fixtures, energy efficient cooling, and water-and energy-efficient landscaping.

54. Include the following standard notes on the Improvement/Grading Plan:

a) Construction equipment exhaust emissions shall not exceed Placer County APCD Rule 202 Visible Emission limitations. Operators of vehicles and equipment found to exceed opacity limits are to be immediately notified by APCD to cease operations and the equipment must be repaired within 72 hours.
b) The contractor shall suspend all grading operations when fugitive dust exceeds Placer County APCD Rule 228 (Fugitive Dust) limitations. The prime contractor shall be responsible for having an individual who is CARB-certified to perform Visible Emissions Evaluations (VEE). This individual shall evaluate compliance with Rule 228 on a weekly basis. It is to be noted that fugitive dust is not to exceed 40% opacity and not go beyond the property boundary at any time. Lime or other drying agents utilized to dry out wet grading areas shall not exceed Placer County APCD Rule 228 Fugitive Dust limitations. Operators of vehicles and equipment found to exceed opacity limits will be notified by APCD and the equipment must be repaired within 72 hours.
c) The prime contractor shall be responsible for keeping adjacent public thoroughfares clean of silt, dirt, mud, and debris, and shall "wet broom" the streets (or use another method to control dust as approved by the individual

jurisdiction) if silt, dirt, mud or debris is carried over to adjacent public thoroughfares.

d) During construction, traffic speeds on all unpaved surfaces shall be limited to 15 miles per hour or less.

e) In order to minimize wind driven dust during construction, the prime contractor shall apply methods such as surface stabilization, establishment of a vegetative cover, paving, (or use another method to control dust as approved by the individual jurisdiction).

f) The contractor shall apply water or use other method to control dust impacts offsite. Construction vehicles leaving the site shall be cleaned to prevent dust, silt, mud, and dirt from being released or tracked off-site.

g) During construction, no open burning of removed vegetation shall be allowed unless permitted by the PCAPCD. All removed vegetative material shall be either chipped on site or taken to an appropriate recycling site, or if a site is not available, a licensed disposal site.

h) A person shall not discharge into the atmosphere volatile organic compounds (VOC's) caused by the use or manufacture of Cutback or Emulsified asphalts for paving, road construction or road maintenance, unless such manufacture or use complies with the provisions Rule 217.

i) Processes that discharge 2 pounds per day or more of air contaminants, as defined by Health and Safety Code Section 39013, to the atmosphere may require a permit. Permits may be required for both construction and operation. Developers/contractors should contact the District prior to construction and obtain any necessary permits prior to the issuance of a Building Permit. (Based on the California Health & Safety Code section 39013: http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=39001-40000&file=39010-39060

j) Include the following standard note on the Improvement/Grading Plan: During construction, the contractor shall minimize idling time to a maximum of 5 minutes for all diesel powered equipment. (APCD)

k) Include the following standard note on the Improvement/Grading Plan: During construction the contractor shall utilize existing power sources (e.g., power poles) or clean fuel (i.e. gasoline, biodiesel, natural gas) generators rather than temporary diesel power generators. (APCD)

55. a) Prior to approval of Grading or Improvement Plans, (whichever occurs first), on project sites greater than one acre, the applicant shall submit a Construction Emission / Dust Control Plan to the Placer County APCD. If APCD does not respond within twenty (20) days of the plan being accepted as complete, the plan shall be considered approved. The applicant shall provide written evidence, provided by APCD, to the local jurisdiction (city or county) that the plan has been submitted to APCD. It is the responsibility of the applicant to deliver

the approved plan to the local jurisdiction. The applicant shall not break ground prior to receiving APCD approval, of the Construction Emission / Dust Control Plan, and delivering that approval to the local jurisdiction issuing the permit.

b) Include the following standard note on the Grading Plan or Improvement Plans: The prime contractor shall submit to the District a comprehensive inventory (i.e. make, model, year, emission rating) of all the heavy-duty off-road equipment (50 horsepower of greater) that will be used in aggregate of 40 or more hours for the construction project. If any new equipment is added after submission of the inventory, the prime contractor shall contact the APCD prior to the new equipment being utilized. At least three business days prior to the use of subject heavy-duty off-road equipment, the project representative shall provide the District with the anticipated construction timeline including start date, name, and phone number of the property owner, project manager, and on-site foreman.

c) Prior to approval of Grading or Improvement Plans, whichever occurs first, the applicant shall provide a written calculation to the Placer County APCD for approval by the District demonstrating that the heavy-duty (> 50 horsepower) off-road vehicles to be used in the construction project, including owned, leased and subcontractor vehicles, will achieve a project wide fleet-average 20 percent NOx reduction and 45 percent particulate reduction compared to the most recent CARB statewide fleet average emissions." Acceptable options for reducing emissions may include use of newer model year engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, and/or other options as they become available. The following link shall be used to calculate compliance with this condition and shall be submitted to the Placer County APCD as described above: http://www.airquality.org/ceqa/ (click on the current "Roadway Construction Emissions Model"). **(APCD)**

56. Include the following standard note on all building plans approved in association with this project: Stationary sources or processes (i.e. certain types of engines, boilers, heaters, etc.) associated with this project shall be required to obtain an Authority to Construct (ATC) permit from the Placer County Air Pollution Control District prior to the construction of these sources. In general, the following types of sources shall be required to obtain a permit: 1). Any engine greater than 50 brake horsepower, 2). Any boiler that produces heat in excess of 1,000,000 Btu per hour, or 3) Any equipment or process which discharge 2 pounds per day or more of pollutants. Note that equipment associated with residential structures containing no more than 1 to 4 residential units are exempt from this requirement. Developers / contactors should contact the District prior to construction for additional information. *(Based on APCD Rule 501 and the California Health & Safety Code, Section 39013).* **(APCD)**

57. As required by the Placer County APCD, Landscape Plans shall include native drought-resistant species (plants, trees and bushes) in order to reduce the demand for irrigation and gas powered landscape maintenance equipment. In addition, a maximum of 25% lawn area is allowed on site. As a part of the project design, the applicant shall include irrigation systems which efficiently utilize water (*e.g.*, prohibit systems that apply water to non- vegetated surfaces and systems which create runoff). **(APCD)**

MISCELLANEOUS CONDITIONS

58. The applicant shall, upon written request of the County, defend, indemnify, and hold harmless the County of Placer, the County Board of Supervisors, and its officers, agents, and employees, from any and all actions, lawsuits, claims, damages, or costs, including attorney's fees awarded by a certain development project known as the Cabin Creek Biomass Facility (PCPJ20110376). The applicant shall, upon written request of the County, pay or, at the County's option, reimburse the County for all costs for preparation of an administrative record required for any such action, including the costs of transcription, County staff time, and duplication. The County shall retain the right to elect to appear in and defend any such action on its own behalf regardless of any tender under this provision. This indemnification obligation is intended to include, but not be limited to, actions brought by third parties to invalidate any determination made by the County under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) for the Project or any decisions made by the County relating to the approval of the Project. Upon request of the County, the applicant shall execute an agreement in a form approved by County Counsel incorporating the provision of this condition. **(CC)**

59. The Improvement Plans shall show for the review and approval by the Development Review Committee the location of any entrance structure proposed by the applicant and shall be located such that there is no interference with driver sight distance as determined by the County, and shall not be located within the right-of-way. Any entrance monument or structure erected within the front setback on any lot, within certain zone districts, shall not exceed 3 feet in height (Ref. Chapter 17, Article 17.54.030, Placer County Zoning Ordinance). **(ESD)**

60. The Improvement Plans shall include a note stating that: During project construction, staking shall be provided pursuant to Section 5-1.07 of the County General Specifications. **(ESD)**

EXERCISE OF PERMIT

61. The applicant shall have 24 months to exercise this Conditional Use Permit. Unless exercised or extended through approval of an Extension of Time application, this Conditional Use Permit (PCPJ20110376) shall expire on May 7, 2015.

This Conditional Use Permit extension shall remain effective for 36 months from the expiration date and shall expire on May 7, 2018, unless exercised before that date.