Shirlee Herrington

I019

From: Fred <fmgeorge@comcast.net>
Sent: Thursday, November 12, 2015 5:59 PM
To: Placer County Environmental Coordination Services
Cc: Nicholas, Joe and Peggy
Subject: MardisValley West Parcel Specific Plan Project

Dear Placer County Community Development Resource Agency, Environmental Coordination Services:

I019-1

I am violently against the above project for exactly the reason you list in your recent communication: "significant effects associated with biological resources; visual resources; TRAFFIC AND CIRCULATION; air quality; greenhouse gases and climate change; noise; geology and soils; hydrology and water quality; utilities; public services and recreation; and hazardous materials and hazards." I live at 4090 Robert Avenue, Cedar Flat, California. Most of my neighbors feel just as strongly. You are going to ruin the Lake Tahoe Basin if it goes through.

Fred George

1

I019

Fred George
November 12, 2015

I019-1 The comment expresses opposition to the MVWPSP and includes a list of environmental resource topics affected by the project. The Draft EIR evaluates project- and cumulative-impacts to the environmental resources listed and provides all feasible mitigation to reduce significant impacts. The Placer County Planning Commission and Board of Supervisors will take the commenter's opinions regarding the merits or qualities of the proposed MVWPSP into consideration when making decisions regarding the project.

Shirlee Herrington

I020

From: Elizabeth Hale <ehcelestine@gmail.com>
Sent: Friday, December 11, 2015 12:21 PM
To: Placer County Environmental Coordination Services
Subject: Martin Valley West Plan

This is an horrific plan....please see others' comments. I020-1

Elizabeth

7

I020

Elizabeth Hale
October 23, 2015

I020-1 The comment expresses opposition to the MVWPSP, but does not address the content, analysis, or conclusions in the Draft EIR. The Placer County Planning Commission and Board of Supervisors will take the commenter's opinions regarding the merits or qualities of the proposed MVWPSP into consideration when making decisions regarding the project.

The comment also points to other comments provided on the Draft EIR. Please see responses to comments provided throughout this Final EIR.

I021

December 3, 2015

RECEIVED
DEC 07 2015
PLANNING DEPT.

Community Resource Development Agency
3091 County Center Dr.
Auburn, CA. 95603

Subject: Martis Valley West Parcel DEIR

To whom this concerns,

I021-1 I am writing this letter in opposition to the flawed and self-serving Environmental Impact Report prepared by the developers of the proposed 760 unit, Martis West Project paralleling State Route 267 on the North Shore of Lake Tahoe. State Route 267 is a 12.6 mile, already seasonally over-crowded, sometimes dangerous and narrow, mountainous, two lane emergency evacuation route between Lake Tahoe and Truckee, between Carnelian Bay and King's Beach. I have enclosed a couple of seasonal photographs clearly representing the existing backed up traffic east and west at the junction of State Routes 267 & 28. Tahoe's roads are already dangerously at capacity.

I have been in a 100,000 acre, wind-blown, wild fire. I will tell you with absolute, first hand experience, NOTHING goes according to evacuation plans, people simply panic. Wind blown embers and flames can and will blow ahead of wherever anyone may be trying to escape. People freeze in their tracks while the push from the rear doesn't cease and wholesale panic and gridlock ensues. There are only two (2) realistic North Shore escape routes out of The North Tahoe Basin, Hwy. 89 west of Tahoe City and State Route 267. Both are two lane roads, one lane in each direction while 267 is especially narrow, mountainous and physically a gully between two ridges. It's a potential death trap in an emergency evacuation. If you can't move forward and you can't go back, you're toast, burned toast.

I021-2 The Martis West EIR represents the developer's claimed occupancy @ 2.5 persons per structure. Really!!!? This is going to be an enormous, multi-million dollar, private, gated community. Does anyone honestly believe these new homes are only going to accommodate 2.5 persons per structure?

I021-3 Their proposed development also includes an unknown number of condominiums, up to 75 ft. high at the ridge line over looking Lake Tahoe after logging over 22,000 trees. Please note the 75' high, GPS drone images provided. These condominium structures and their lights will clearly be seen from The Tahoe Basin despite what the developers claim to the contrary. If they can see the lake from the ridge top, which will be their foremost selling point, the lake will surely see them and their night lights.

I021-4 Although this EIR is solely reflective for the proposed Martis West Development, please, consider the reality that this same developer has every intension to develop an additional 550 camp sites into The Tahoe Basin, including 100 RV hook-ups, a six (6) acre commercial and entertainment area on their contiguous 120 acres. Imagine the complications and consequential realities compounding a mass emergency evacuation of The North Shore when the occupants of these 760 new homes, including who knows how many of out of area campers and RV's, towing boats and other toys rush onto Hwy. 267 during an emergency. North Shore reality is that egregious over development throughout the area is turning Lake Tahoe, with our limited infrastructure, into an over-crowded, gridlocked death trap. How will anyone be able get out of here in an emergency?

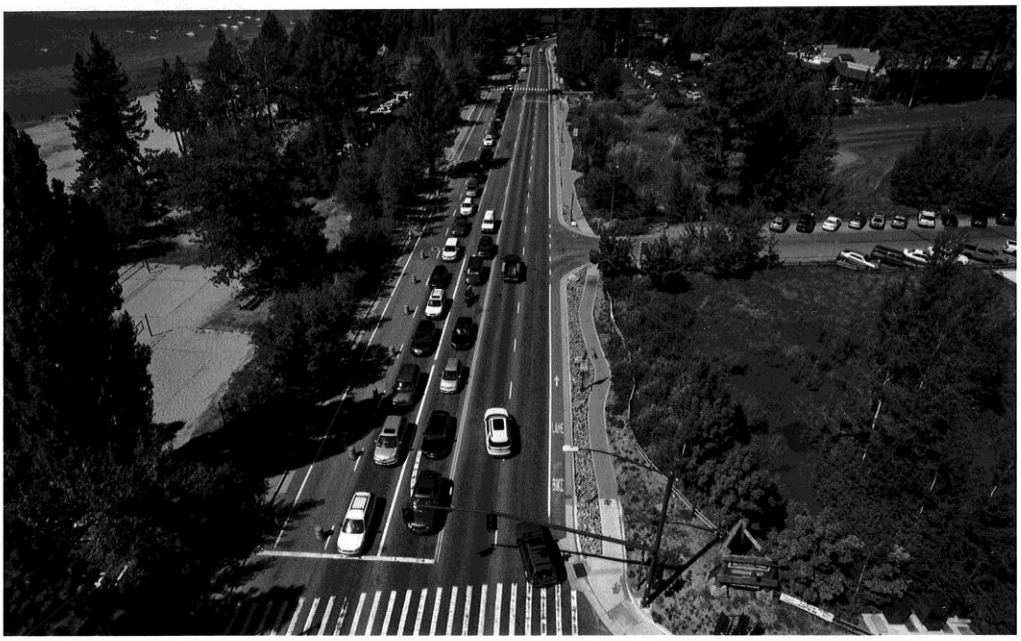
I021-5 It is imperative that environmental conscience and reality for the safety and well-being of the North Shore, it's residents and visitors trump the singular, profit driven motivation of developers. Please, for the sake of one of America's most beautiful natural wonders, I urge you to do the right thing, protect what remains of Lake Tahoe before it is irreversibly and forever lost to development and deny this application for any number of common sense, fact-based reasons.

Respectfully,

Robert & Elizabeth Heinz
North Shore residents for 18 years.

P.S. Hwy. 267 in California is also an Emergency Evacuation Route for State Line and Incline Village, Nevada area.

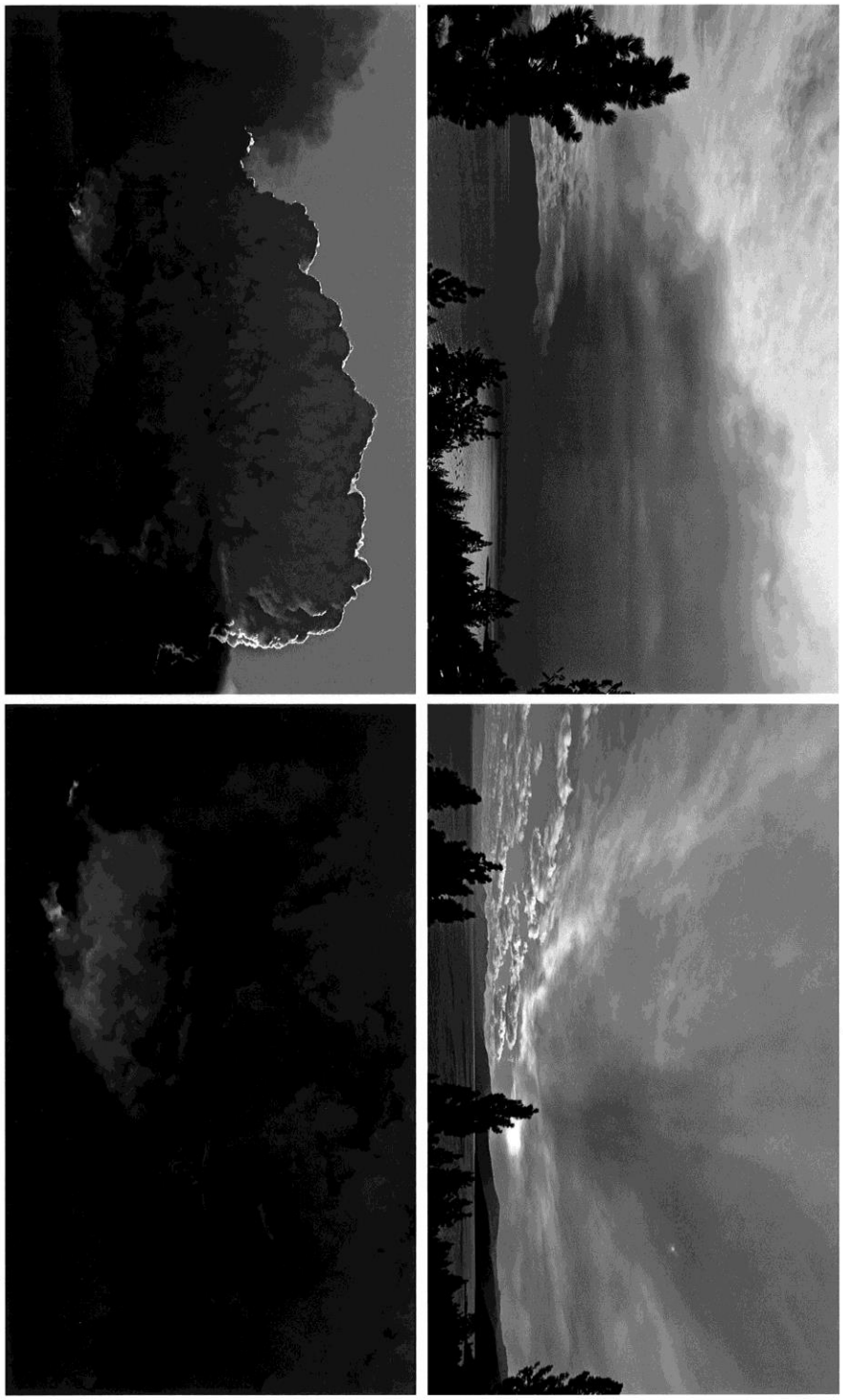
These images show the existing traffic gridlock east & west on State Hwy. 28 @ Hwy. 267 approaching Kings Beach. The orange cones now shift traffic from two (2) lanes through Kings Beach into one (1) lane. I021-6



These images show the lake view from 75' at the ridge line of the proposed Martis Valley West condominium project before any logging to enhance lake views. I021-7

These two images show numerous trapped and torched vehicles on Interstate I-15 between Los Angeles & Las Vegas on July 17, 2015. If this can happen on a four (4) lane freeway in the middle of a desert, imagine what could happen on a single lane, mountainous road in a gully with thousands of panicked residents and out of area visitors, some no doubt in RVs, fleeing a wind-blown wild fire.

I021-8



This is what the 107,000 acre King Fire looked like from our home on September 17, 2014.

I021-8
cont.

I021

Robert and Elizabeth Heinz
December 7, 2015

I021-1 The comment describes existing traffic conditions on SR 267 and expresses concerns related to the project's effect on evacuation routes. While the photos are not dated, it appears that a portion of the congestion depicted in the Kings Beach photo is due to a construction-related lane closure. Please see Master Response 9, which addresses these issues.

I021-2 The comment questions the Draft EIR population assumption of 2.5 persons per unit (see Chapter 6, "Population, Employment, and Housing"). This rate is consistent with the rate used in the Martis Valley Community Plan (MVCP). This number is slightly less than the average household size in unincorporated Placer County in 2010 (2.57 persons per household), as shown in Table 6-4 of the Draft EIR.

I021-3 The comment expresses opposition to the project due to development of the ridge lines and adverse effects on night skies. Project-related impacts to scenic vistas and light and glare were analyzed through modeling and visual simulations, and determined to be less than significant, as described in Draft EIR Impact 9-1, "Adverse effects on scenic vistas," and Impact 9-4, "New sources of light and glare." Please see response to comment I018-42 regarding the technical analysis that was conducted for the visual resources evaluation in the EIR. Please also see Master Response 4, which addresses the visual resources evaluation methodology. The Placer County Planning Commission and Board of Supervisors will take the commenter's opinions regarding the project and ridgeline protections into consideration.

I021-4 The comment expresses concerns related to the additional effects that would result from construction of the Brockway Campground, and potential effects on emergency evacuation. Please see Master Response 4, related to the Brockway Campground proposal and cumulative effects, and Master Response 9, regarding emergency evacuation, where these issues are addressed.

I021-5 The comment expresses opposition to the MVWPSP. The Placer County Planning Commission and Board of Supervisors will take the commenter's opinions regarding the merits or qualities of the proposed MVWPSP into consideration when making decisions regarding the project.

I021-6 The comment includes images of traffic conditions on SR 28 at SR 267 eastbound, approaching Kings Beach, and westbound, approaching Tahoe Vista referenced in the commenter's first comment. Please see response to comment I021-1.

I021-7 The comment provides images from 75 feet above ground level on the West Parcel. Please see response to comment I021-3.

I021-8 The comment provides images of fires and accidents along Interstate 15, between Los Angeles and Las Vegas, and images of the King Fire (September 2014). Please see responses to comments I021-1 and I021-4.

Shirlee Herrington

I022

From: teeski70@aol.com
Sent: Thursday, December 03, 2015 6:52 PM
To: Placer County Environmental Coordination Services
Subject: Do not build Brockway Summit!!

I022-1

I am a 20+ year resident and business owners, always on the north shore of Lake Tahoe. We can not handle any more growing in this area. The infrastructure is unable to handle the amount of people NOW!! Protect our environment! It is more important than the money the want to bribe you with!! Stop expansion PERIOD! Clean up the grid in kings beach and sell that update instead!!

Sincerely,

Kim Smith
Helluvajob Housecleaning
530-581-1853

Sent from my HTC

69

I022

Helluvajob Housecleaning
Kim Smith
December 3, 2015

I022-1 The comment expresses opposition to the MVWPSP project. The Placer County Planning Commission and Board of Supervisors will take the commenter's opinions regarding the merits or qualities of the proposed MVWPSP into consideration when making decisions regarding the project.

I023

Date: 12-17-2015
To: cdraecs@placer.ca.gov, Placer County Board of Supervisors
From: Kristina Hill, Environmental Planner, Incline Village
Subject: Martis Valley West Specific Plan Draft Environmental Impact Report (State Clearinghouse No. 2014032087)

I appreciate the opportunity to provide comments regarding the above referenced matter. I find the project to be excessive urban blight and the EIR evaluation inadequate for the following reasons:

1.) The documentation sited above claim that the project is adjacent to existing development which it is not. I023-1

2.) The project is not an opportunity as depicted, it is a trap. There are "unavoidable negative significant impacts" associated with the plan. I023-2

3.) The environmental evaluation should be based on its own merit not what "might have been" on the east side parcel. For example, the claims that traffic impacts are an improvement when actually they are significantly negative. I023-3

4.) CEQA requires an evaluation of cumulative impacts; however, the document curiously does not include the large project proposed on adjacent property, by the same owner at the same time – the Brockway Campground. Likely this is due to the fact that the campground is located in the Tahoe Basin which requires review by the TRPA and if combined with the Martis Valley plan, would surely create un-mitigatable negative environmental impacts thereby preventing any chance of approval. I023-4

5.) I find that the density, height of the structures, proposed access through a beautiful, pristine meadow containing a stream zone, traffic and scenic impacts offensive and beyond reproach. I023-5

Conclusion:

This area is considered a natural treasure world-wide and the implementation of this plan would destroy not only the environment but the publics perception of this one of a kind Sierra ridgeline, resulting in traffic choked roadways and urban sprawl in virgin forests. I strongly plead for denial of all facets of this proposal.

Sincerely,

Kristina Hill
P.O. Box 6139
Incline Village, NV 89450

I023

Kristina Hill
December 17, 2015

I023-1 The comment takes issue with the statement that the project site is adjacent to existing development. Section 6.2 of the Draft Specific Plan states, "The MVWPSP is nestled adjacent to Northstar Resort…" However, throughout the Draft EIR, the description and analysis of the project recognizes the undeveloped land surrounding the West Parcel. For example, page 5-4 of the Draft EIR explains: "Privately-owned, undeveloped forested areas along the western boundary of the West Parcel adjacent to the Northstar Resort include downhill ski areas, a variety of lodging and residences, and tourist and resort amenities." Further, on page 5-20 the Draft EIR explains that "lands adjacent to the East and West Parcels primarily contain forests that are utilized for recreation purposes similar to those that occur on the MVWPSP project site (see Exhibits 5-1 and 3-4)." The discussion under Impact 5-2, "Compatibility with surrounding land uses," in Chapter 5, "Land Use and Forest Resources," states that lands adjacent to the East and West Parcels primarily contain forests that are utilized for recreation purposes. The discussion goes on to say that the West Parcel development area would be located in proximity to the Northstar Resort, which is correct.

I023-2 The comment may be referring to the Martis Valley Opportunity Project, which is the proposal to preserve the 6,376-acre East Parcel as described on page 3-9 of the Draft EIR, under "East Parcel Proposed Land Use Designations, Zoning, and Land Uses."

The statement about the project resulting in "unavoidable negative significant impacts" is acknowledged. These issues are evaluated and disclosed, and mitigation measures recommended, as required by CEQA (PRC Section 21000 et seq.) and the State CEQA Guidelines (Title 14 California Code of Regulations Section 15000 et seq.).

I023-3 The comment suggests that the Draft EIR compares impacts to a hypothetical baseline. See Master Response 3 regarding the baseline environmental conditions used to determine environmental impact conclusions in the Draft EIR. As discussed in Master Response 3, the baseline conditions for the MVWPSP Draft EIR are generally the conditions as they existed at the time that the March 2014 NOP was published. Section 1.3, "Definition of Baseline," in Chapter 1 of the Draft EIR defines the baseline physical conditions by which Placer County (the lead agency) determined whether an impact was significant. The baseline conditions for each environmental resource topic are described under "Environmental Setting" throughout Chapters 5 through 18 of the Draft EIR. The Draft EIR does not compare impacts to a hypothetical full buildout of existing plans. However, as a planning document that would supersede the MVCP, the MVWPSP would result in a shift of allowed residential and commercial development from the East Parcel to the West Parcel. Therefore, a discussion of the existing land use designations, the development potential, and the estimated associated population under the MVCP on the East Parcel is necessary in disclosing the existing setting and the effects of the project (see Master Response 3 for additional details).

It is unclear to what traffic impacts the comment is referring. Chapter 10, "Transportation and Circulation" of the Draft EIR did not identify beneficial impacts.

I023-4 The comment suggests that the Draft EIR did not include the proposed Brockway Campground project in the cumulative analysis. This is incorrect. The Brockway Campground proposal is listed as a cumulative project in Chapter 4 of the Draft EIR (see Table 4-2) and considered in the cumulative impacts of Chapters 5 through 18. See Master Response 2 related to the Brockway Campground proposal and cumulative effects.

I023-5 The comment expresses opposition to the proposed project and recommends denial by decision makers. The Placer County Planning Commission and Board of Supervisors will take the commenter's opinions regarding the merits or qualities of the proposed MVWPSP into consideration when making decisions regarding the project.

Shirlee Herrington

I024

From: An LaBarre <anlabarre@yahoo.com>
Sent: Friday, November 20, 2015 6:46 AM
To: Placer County Environmental Coordination Services
Subject: MartisValley

Please keep the horse trails open. I024-1

Sent from my iPhone

1

I024

An LaBarre
November 20, 2015

I024-1 The comment includes a request to keep horse trails open. It is unclear to which horse trails the commenter is referring. As explained in Chapter 3 of the Draft EIR (page 3-11), the East Parcel contains approximately 40 miles of existing informal and unauthorized trails that are assumed to be retained. The Draft EIR analyzes potential effects on existing recreational facilities in Chapter 17, "Public Services and Recreation."

LAW OFFICE OF DONALD B. MOONEY
129 C Street, Suite 2
Davis, CA 95616
530-758-2377
dbmoney@dcn.org

1025

December 22, 2015

VIA ELECTRONIC MAIL
cdraees@placer.ca.gov
swydra@placer.ca.gov
AND REGULAR MAIL

Stacy Wydra
Environmental Coordination Services
Placer County Community Development Resource Agency
3091 County Center Drive, Suite 190
Auburn, CA 95603

Re: Comments on the Draft Environmental Impact Report for the Martis Valley West Parcel Specific Plan

Dear Ms. Wydra:

This office represents the Mother Lode Chapter of the Sierra Club and submits the following comments on the Draft Environmental Impact Report for the Martis Valley West Parcel Specific Plan. As an initial matter, the commentors object to the proposed project on the grounds that the Draft Environmental Impact Report ("DEIR") fails to meet the legal requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code, section 21000 *et seq*. and the CEQA Guidelines, section 15000 *et seq*. (Title 14 California Code of Regulations § 15000 *et seq*.)

I. THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

"CEQA is a comprehensive scheme designed to provide long-term protection to the environment. [Pub. Resources Code, §21001.] In enacting CEQA, the Legislature declared its intention that all public agencies responsible for regulating activities affecting the environment give prime consideration to preventing environmental damage when carrying out their duties. [Pub. Resources Code, § 21000(g).] CEQA is to be interpreted 'to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.' [*Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259]". (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 112.) "The environmental impact report, with all its specificity and complexity, is the mechanism prescribed by CEQA to force informed decision making and to expose the decision-making process to public scrutiny. (*Planning and Conservation League v. Department of Water Resources* (2000) 83 Cal.App.4th 892, 910; citing *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 86.) This interpretation remains the benchmark for judicial interpretation of CEQA. (*Laurel Heights Improvement Association v. Regents of the University of California ("Laurel*

1025-1

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Heights I") (1988) 47 Cal.3d 376, 390, quoting *Bozung* v. *Local Agency Formation Commission* (1975) 13 Cal.3d 263, 274.) As the *Laurel Heights I* court noted, "[i]t is, of course, too late to argue for a grudging, miserly reading of CEQA." (*Laurel Heights I, supra*, 47 Cal.3d at p. 390.)

The EIR is "the heart of CEQA" and "an environmental alarm bell whose purpose is to alert the public and its responsible officials to environmental changes before they have reached the ecological point of no return." (*Id.* at p. 392.) The EIR is the "primary means" of ensuring that public agencies "take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state." (*Id.*, quoting Pub. Resources Code, § 21001(a).) The EIR is also a "document of accountability," intended "to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its actions." (*Laurel Heights I, supra,* 47 Cal.3d at p. 392 (quoting *No Oil, Inc., supra,* 13 Cal.3d at p. 86.) Thus, "[t]he EIR process protects not only the environment but also informed self-government." (*Ibid.*)

The central purpose of an EIR is to identify the significant environmental effects of the proposed project, and to identify ways of avoiding or minimizing those effects through the imposition of feasible mitigation measures or the selection of feasible alternatives. (Pub. Resources Code, § 21002, 21002.1(a), 21061.) "An EIR provides the public and responsible government agencies with detailed information on the potential environmental consequences of an agency's proposed decision." (*Mountain Lion Foundation v. Fish & Game Commission, supra,* 16 Cal.4th at p. 113.) Thus, the primary purposes of CEQA is to inform government decision-makers and the public about the potential significant environmental effects of proposed projects (CEQA Guidelines, § 15002(a)(1)) and to disclose to the public the reasons for approval of a project that may have significant environmental effects. (CEQA Guidelines, § 15002(a)(4).) Informed decision making and public participation are fundamental cornerstones of the CEQA process. (See *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights I, supra*, 47 Cal.3d 376.) With this primary purpose of CEQA in mind, the California Supreme Court has stated that "[t]he environmental impact report ("EIR") is the primary means of achieving the Legislature's considered declaration that it is the policy of this State to take all action necessary to protect, rehabilitate, and enhance the environmental quality of the State." (*Sierra Club v. State Board of Forestry* (1994) 7 Cal.4th 1215, 1229 [emphasis added].)

Thus, when an agency fails to comply with CEQA's informational requirements of CEQA, an agency has failed to proceed in 'a manner required by law. (*Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 118. If the deficiencies in an EIR "preclude[ ] informed decisionmaking and public participation, the goals of CEQA are thwarted and a prejudicial abuse of discretion has occurred." (*Id.* at p. 128.)

I025-1 cont.

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As discussed in these comments as well as the comments submitted by the Friends of the West Shore ("FOWS") and the Tahoe Area Sierra Club ("TASC"), the DEIR fails to satisfy CEQA's legal requirements and fails as an informational document. Thus, the DEIR is legally deficient. I025-1 cont.

II. THE DEIR'S PROJECT DESCRIPTION FAILS TO COMPLY WITH CEQA

The DEIR fails to provide an adequate Project Description. CEQA requires that environmental review document contain an accurate description of the entire project. (See *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) In *County of Inyo*, the court stated that "[a]n accurate, stable and finite project description is the *sine qua* non of an informative and legally sufficient EIR." (*Id.*) CEQA requires a complete project description to ensure that all of the project's environmental impacts are considered. (*City of Santee v. County of San Diego* (1989) 214 Cal.App.3d 1450, 1454.) As stated by the court in *County of Inyo,* "[a] curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantages of terminating the proposal (i.e., the "no project" alternative) and weigh other alternatives in the balance." (71 Cal.App.3d at pp. 192-193; see also *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 82 [court found project description inadequate where EIR concealed, ignored, excluded, or simply failed to provide pertinent information" regarding a reasonably foreseeable consequence of the project].) A curtailed, enigmatic or unstable project description draws a red herring across the path of public input." (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 656; quoting *County of Inyo, supra,* 71 Cal.App.3d at pp. 197-198.) I025-2

An accurate project description is essential as it allows the public and the decision-makers to evaluate the project's benefits against its environmental effects. (*County of Inyo v. City of Los Angeles, supra,* 71 Cal.App.3d at pp. 192-193.) An inaccurate project description may result in an EIR that fails to disclose impacts associated with the project. (See *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 829.) Moreover, an accurate project description provides for full disclosure and informed decision-making. (See Kostka & Zischke, *Practice Under the California Environmental Quality Act* (Cont. Ed. Bar 2013) § 12..7, at p. 580.) "[O]nly through an accurate view of the project may the public and interested parties and public agencies balance the proposed project's benefits against its environmental cost, consider appropriate mitigation measures, assess the advantages of terminating the proposal and properly weigh other alternatives ... ." (*City of Santee v. County of San Diego, supra,* 214 Cal.App.3d at p. 1454.) If the description is inadequate because it fails to discuss an aspect of the project, the environmental analysis will probably reflect the same mistake. (See *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.3d 713, 722-723.)

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A. The DEIR Fails to Identify and Describe Key Components of the Project.

The DEIR's Project Description fails to meet CEQA's requirements as it lacks detailed information regarding specific project details such as the location of single family, multi-family homes and commercial development. In order to fully evaluate the project the DEIR needs to contain more specific information as to the location of development and the height of the development. The omission of this information from the Project Description leads to speculation as to the location of the development and the height of the development. Such speculation affects the DEIR's impact analysis and leads to uncertainty for the public and the decisionmakers. I025-2 cont.

Additionally, while the Project Description references a development agreement, the DEIR fails to describe the Development Agreement or include a draft of the Development Agreement. As the Development Agreement will govern implementation of the Project, the DEIR needs to either describe the development agreement or include a copy of the draft agreement so that the public can have the opportunity to review and comment.

B. The DEIR Fails to Consider the Whole Project and Improperly Piecemeals the Environmental Review

CEQA is "to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language." (*Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259.) As a result, courts have given the term "project" a broad interpretation and application to maximize protection of the environment. (*Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1198; *Friends of the Sierra Railroad v. Tuolumne Park & Recreation District* (2007) 147 Cal.App.4th 643, 653 ["CEQA's conception of a project is broad"].) Based upon this broad interpretation of "project", CEQA requires that an EIR address the whole of the project. (CEQA Guidelines, § 15378(a), (c)-(d); *RiverWatch v. Olivenhain Municipal Water District* (2009) 170 Cal.App.4th 1186.) The action reviewed under CEQA is not the approval itself but the development or other activities resulting from the agency's approval of the project. In preparing an EIR, an agency may not conceal environmental considerations by focusing on separate parts of the project and ignoring the cumulative effect of the whole action. (*Bozung v. LAFCO* (1975) 13 Cal.3d 268, 283.) Thus, CEQA "cannot be avoided by chopping up proposed projects into bite-sized pieces which, individually considered, might be found to have no significant effect on the environment or to be only ministerial." (*Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1223.) I025-3

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The DEIR fails to consider and evaluate any future development in the Tahoe Basin. The applicant suspended the application before the Tahoe Regional Planning Agency ("TRPA"), but has not completely disavowed any future development within the Tahoe Basin as part of the overall development. Nothing within the DEIR indicates that the proposal to develop within the Tahoe Basin has been permanently and irrevocably abandoned. As development within the Tahoe Basin appears to remain an option for the applicant, the DEIR should discuss and analyze the potential impacts associated with development in the basin.

The DEIR also segments environmental review by not including the Brockway Campground. An application for the Brockway Campground has been submitted to the County and TRPA. The proposal for the Brockway Campground is essentially part of the same development as it is on the same property as the current Project and is proposed by the same applicant/developer. Thus, there is nothing speculative about the Brockway Campground as it is a pending proposal that has been sufficiently defined by the applicant and is currently under consideration by the respective agencies. Excluding the Brockway Campground from the environmental review, conceals environmental considerations by focusing on separate parts of the project and ignoring the cumulative effect of the whole action. (See *Laurel Heights I, supra,* 47 Cal.3d 376, 396-397.) As such, the DEIR should be revised to include the Brockway Campground and then recirculated for public review and comment. I025-3 cont.

III. THE DEIR'S ALTERNATIVE ANALYSIS FAILS TO MEET CEQA'S REQUIREMENTS

The EIR contains a legally flawed alternative analysis as it fails to contain a reasonable range of feasible alternatives that avoid or substantially lessen the Project's significant environmental impacts. (EIR at pp. 22-31; see Pub. Resources Code, §§ 21001(g); 21002.1(a); CEQA Guidelines, § 15126.6; *Goleta Valley, supra,* 52 Cal.3d at 566.)

A. CEQA REQUIRES AN EIR TO CONSIDER A REASONABLE RANGE OF FEASIBLE ALTERNATIVES

I025-4

CEQA mandates that a lead agency adopt feasible alternatives or feasible mitigation measures that can avoid or substantially lessen the project's significant environmental impacts. (Pub. Resources Code, § 21002; Guidelines, § 15002(a)(3); *Citizens of Goleta Valley v. Board of Supervisors, supra,* 52 Cal.3d at p. 566.) For that reason, "[t]he core of an EIR is the mitigation and alternatives sections." (*Id.* at p. 564.) "The purpose of an environmental impact report is to identify the significant effects on the environment of a project, *to identify alternatives to the project*, and to indicate the manner in which those significant effects can be mitigated or avoided. (Pub. Resources Code, § 21002.1(a) (emphasis added); see also Pub. Resources Code, § 21061.) Thus, a lead agency must ensure "that all reasonable alternatives to proposed projects are thoroughly

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assessed." (*Wildlife Alive* v. *Chickering* (1976) 18 Cal.3d 190, 197; Pub. Resources Code, § 21001(g) (lead agency must "consider alternatives to proposed actions affecting the environment"); *Laurel Heights I, supra,* 47 Cal.3d at p. 400.)

The EIR must "describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project, and evaluate the comparative merits of the alternatives." (CEQA Guidelines, § 15126.6(a).) The alternatives discussion must focus on alternatives that avoid or substantially lessen any significant effects of the project. (*Id.*, § 15126.6(b); *Goleta Valley, supra,* 52 Cal.3d at p. 566 (EIR must consider alternatives that "offer substantial environmental advantages").) The range must be sufficient "to permit a reasonable choice of alternatives so far as environmental aspects are concerned." (*San Bernardino Valley Audubon Soc'y* v. *County of San Bernardino* (1984) 155 Cal.App.3d 738, 750; see also *Sierra Club* v. *Contra Costa County* (1992) 10 Cal.App.4th 1212, 1217-18, 1222 (EIR that only considered two alternatives for less development was not a range of reasonable alternatives).) Although no rule governs the number of alternatives that must be considered, the range is governed by the "rule of reason." (*Goleta Valley, supra*, 52 Cal.3d at p. 576; CEQA Guidelines, § 15126.6(a)(f).) *Marin Municipal Water District v. KG Land Corp. ("Marin")* (1991) 235 Cal.App.3d 1652, 1664 ("CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR").) The range of alternatives, however, must be selected and discussed in a manner that allows for meaningful public participation and informed decisionmaking. (*Id.*) The fact that CEQA does not require a specific number of alternatives does not excuse an agency's failure to present *any* feasible, less environmentally damaging options to a proposed project. (See *Sierra Club v. Contra Costa County, supra,* 10 Cal.App.4th at 1217-18, 1222 (EIR that only considered two alternatives for less development was not a range of reasonable alternatives).) I025-4 cont.

In *Watsonville Pilot Association v. City of Watsonville, supra,* 183 Cal.App.4th at pp. 1086-1088, the court held that an EIR was legally inadequate because it failed to consider a reduced project alternative. The court rejected the City's argument that no discussion of an alternative is required if that alternative would not meet a project objective. (*Id.*) The court held "it is virtually a given that the alternatives to a project will not attain *all* of the project's objectives." (*Id.* (emphasis in original).) The Court also rejected the City's argument that the EIR adequately addressed a reduced development alternative by considering the no-project alternative. (*Id.* at pp. 1088-1089.) The court recognized that "the core of an EIR is the mitigation and alternatives sections" and that the purpose of an EIR is to identify the significant effects of a project on the environment, *to identify alternatives to the project*, and to indicate the manner in which those significant effects can be mitigated or avoided." (*Id.*)

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B. THE EIR FAILED TO INCLUDE A REASONABLE RANGE OF ALTERNATIVES

Contrary to CEQA's directive, the DEIR fails to consider a "reasonable range" of alternatives that would reduce and avoid the Project's significant impacts. (See Pub. Resources Code, §§ 21002 and 21002(a); Guidelines § 15126.6(b); *Goleta Valley*, 52 Cal.3d at 566.) Failure to provide a range of potentially feasible alternatives means that the EIR fails to provide a choice to the decisionmakers. (*San Bernardino Valley Audubon Soc'y v. County of San Bernardino, supra,* 155 Cal.App.3d at 750 (range must be sufficient to provide a reasonable choice of alternatives); *California Native Plant Society v. City of Santa Cruz, supra,* 177 Cal.App.4th at 981 (the decisionmaking body evaluates whether the alternatives are *actually* feasible); CEQA Guidelines, § 15126.6(a) (EIR must consider a reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation.).)

Other than the two No Project Alternatives (Guidelines, § 15126.6(e)), the EIR's alternative analysis contains only two alternatives. The DEIR's Alternative analysis fails to consider alternatives that would avoid or substantially lessen the potentially significant environmental impacts. (See CEQA Guidelines, 15126.6(b); see DEIR 19-37.) A review of Alternative 4 clearly indicates that it does not avoid or substantially lessen any of the project's impacts. The DEIR concludes that every impact is essentially similar to the proposed Project. (See DEIR 19-29 to 19-36.) Alternative 3 fairs a bit better, but still all of the impacts are essentially similar to the proposed Project. Thus, the DEIR's alternative analysis is legally inadequate as it fails to consider a reasonable range of alternatives that avoid or substantially lessen the Project's significant environmental impacts. (See *Watsonville Pilot Association v. City of Watsonville, supra,* 183 Cal.App.4th at pp. 1086-1088.) I025-4 cont.

The DEIR failed to examine an alternative that does not place development on the ridgeline and that any buildings cannot exceed the height of ridgeline so as not to impair the views from any location in the Tahoe Basin. Thus, in order to avoid significant impacts to visual resources as discussed below and in FOWS and TASC's comments, the DEIR should fully develop and analyze a non-ridgetop alternative, in which development is shifted and concentrated downslope, and any building footprints approaching the ridge should be subject to a building setback.

III. THE DEIR FAILS TO ADEQUATELY ADDRESS IMPACTS AND LACKS ADEQUATE MITIGATION MEASURES

A fundamental problem with the DEIR's impact analysis is that it relies upon comparing the impacts of the proposed Project with a project that would allow the applicant/developer have an additional 600 units if development were approved. (See *Neighbors for Smart Rail v. Exposition Metro Line Authority* (2013) 57 Cal.4th 439, 457.) CEQA requires that an EIR should compare a project's impact to existing conditions, not hypothetical conditions that allow an agency to distort or minimize the Project's impacts and avoid the appropriate analysis and appropriate mitigation measures. (*Woodward* I025-5

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Park Homeowners Association v. City of Fresno (2007) 150 Cal.App.4th 683, 707 (EIR for planning and zoning changes for a new commercial development rejected because EIR compared proposed development only to hypothetical office park that could be developed under preexisting plan but did not compare proposed development with existing physical conditions on site).

In *Environmental Planning & Information Council v. County of El Dorado ("EPIC")* (1982) 131 Cal.App.3d 350, 358, the Court that such an approach "can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts which would result." Since the EIR failed to contain extensive detailed evaluations of the impacts of the proposed plans on the environment in its current state, the EIR failed as an informative document. (*Id.*)

The DEIR in the present matter suffers from the same fatal flaw. (See e.g. Impact 7-1, Impact 7-2, Impact 12-2.) It fails to inform the decision makers and the public of the proposed Project's impacts to the existing environment. Instead it painstakingly compares this Project to a hypothetical project that may or may not be completed sometime in the future. Moreover, even if the other East Parcel was pursued at some point in the future, the amount of units approved for development is speculative at this point. Thus, under *EPIC* the baseline for assessing environmental impacts must be the existing environment and the agency preparing the EIR must compare the existing environment (little or no development) with the total amount of development permitted under the proposed plan. (*Id. at p. 358; City of Carmel-by-the Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 246-247; *Christward Ministry v. Superior Court* (1986) 184 Cal.App.3d 180, 186-187.) I025-5 cont.

While the Court in *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439,454, held that "[N]othing in CEQA law precludes an agency ... from considering both types of baseline--existing and future condition--in its primary analysis of the project's significant adverse effects, it is clear that the EIR must contain an analysis based upon existing environmental conditions. The DEIR in this matter failed to consider the most important baseline, the existing environment. As such, the DEIR fails to meet CEQA's legal requirements and the impact analysis is fatally flawed.

A. The DEIR's Greenhouse Gas Emissions Analysis Violates CEQA

The DEIR's analysis of GHG emissions is legally inadequate as it based upon a hypothetical buildout of "No Action Taken Scenario." (DEIR 12-14.) The DEIR uses the environmental setting of full buildout of the East Parcel even though no such application has been filed let alone approved for the development of the East Parcel. As a result, the DEIR concludes that the Project would result in a 23.2 percent reduction in greenhouse gas emissions. (DEIR 12-13 to 12-15.) Based upon this analysis, the DEIR concludes that the GHG emissions associated with the operation of the Project would not conflict with the ARB's Scoping Plan for 2020 targets. (DEIR 12-14 to 12-15.) I025-6

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By relying on the hypothethical buildout of 1360 units in the East Parcel, the DEIR fails to analysis GHG emissions based upon existing conditions as required by CEQA. (See *Neighbors for Smart Rail v. Exposition Metro Line Authority* (2013) 57 Cal.4th 439, 457.) CEQA requires that an EIR compare a project's impact to existing conditions, not hypothetical conditions that allow an agency to distort or minimize the Project's impacts and avoid the appropriate analysis and appropriate mitigation measures. (*Woodward Park Homeowners Association v. City of Fresno, supra,* 150 Cal.App.4th at p. 707 (EIR for planning and zoning changes for a new commercial development rejected because EIR compared proposed development only to hypothetical office park that could be developed under preexisting plan but did not compare proposed development with existing physical conditions on site); see also *EPIC, supra,* 131 Cal.App.3d 350.)

The CEQA Guidelines address the specific baseline for evaluating GHG emissions. CEQA Guidelines section 15604.4(b) provides that in evaluating a project's GHG emissions, the agency should consider these factors among others: —(1) The extent to which the project may increase or reduce greenhouse gas emissions as compared to the existing environmental setting; (2) Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project; and (3) The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions. In *Neighbors for Smart Rail,* the Supreme Court held that "while an agency preparing an EIR does have discretion to omit an analysis of the project's significant impacts on existing environmental conditions and substitute a baseline consisting of environmental conditions projected to exist in the future, the agency must justify its decision by showing an existing conditions analysis would be misleading or with informational value." The present DEIR fails to discuss how it would be misleading to compare the Project's GHG emission to existing conditions in evaluating the significance of the GHG emissions. Thus, given the requirement of CEQA Guideline 15064.4 and *Neighbors for Smart Rail,* the DEIR's reliance on a hypothetical future baseline violates CEQA. As such, the DEIR and analysis of GHG emissions must be revised to compare the Project's emissions to existing conditions. I025-6 cont.

By comparing the proposed project to what *could* happen, rather than to what was actually happening, an agency relies upon a baseline not according to "established levels of a particular use," but by "merely hypothetical conditions allowable". (*Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 322; citing *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 658, and County of Amador v. El Dorado County Water Agency (1999) 76 al.App.4th 931, 955 (impact analysis must on impacts to existing environment, not hypothetical situations).)

The DEIR's GHG emissions analysis also relies upon Business as Usual (BAU) approach to measure GHG impacts. This approach violates CEQA's requirements regarding analysis of a Project's GHG emissions. CEQA requires that one of the factors I025-7

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in determining a Project's GHG impacts is whether the project " may increase or reduce greenhouse gas emissions compared to the existing environmental setting." (CEQA Guidelines, 15064.4(b)(1).) In relying upon BAU for the existing environmental setting, the DEIR assumes that the hypothetical project would be built and that no statewide regulations and/or laws governing GHG emissions would have gone into effect. The DEIR gives credits for the current Project complying with various regulations and policies to reduce GHG emissions. The result is a misleading analysis and conclusion regarding the Project's GHG emissions due to the artificially inflated baseline. The courts have rejected this approach. (See *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 322; see also CEQA Guidelines §§ 15126.2(a), 15064.4(b)(1).) Thus, CEQA requires that the proper comparison for year 2020 is the Project site's existing conditions. (*Id.*) I025-7 cont.

When a project's GHG emissions may be significant, lead agencies must consider a range of potential mitigation measures to reduce those emissions. (See CEQA Guidelines § 15126.4(c).) The DEIR determines that the GHG emissions are potentially significant for after 2020, but not before 2020. (DEIR 12-16.) The DEIR then discusses Mitigation Measure 12-2. Mitigation Measure 12-2, however, must be revised to address the legally inadequate analysis regarding before 2020. The DEIR inappropriately assumes reduction of GHG emissions of 23.2 percent by 2020 when in fact, based upon the existing environmental setting, the GHG would be potentially significant. As such, the DEIR must be revised to consider mitigation measures to address GHG emissions impacts by 2020.

B. The DEIR's Visual Resources Analysis Fails to Comply with CEQA Requirements

One of the Sierra Club's major issues of concern remains the Project's potential impacts to visual resources. The modified Project occupies a ridge between Tahoe Basin and Martis Valley in one of the most scenic and publicly accessible places in the Sierra, visited by millions of people each year. The Project's footprint fails to recognize and reflect the extreme sensitivity of the Project's location. While the height and location of buildings, construction materials, indoor and outdoor lighting, screening, *etc.* can to some degree mitigate for visual impacts, but cannot offset an inappropriate project footprint. I025-8

The DEIR's design of the Project does not reflect the sensitivity of the Project's location. Rather than limiting development to the lower bench and flanks of the ridge, the County seeks to place commercial uses at the highest point on the ridge. Multi-family residential uses are also slated for the top of the ridge. The Project's current footprint unfortunately does not reflect an effort to avoid these impacts to visual resources.

A project that interferes with scenic views has an adverse aesthetic effect on the environment. (See, e.g., *Ocean View Estates Homeowners Association, Inc. v. Montecito Water District* (2004) 116 Cal.App.4th 396, 401.) The significance of an environmental

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impact is ... measured in light of the context where it occurs. (CEQA Guidelines § 15064(b).) The Guidelines confirm that 'the significance of an activity may vary with the setting. (*Id.*) For example, an activity that may not be significant in any urban area may be significant in a rural area. (*Id.; see Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 589; *San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal.App.4th 1012, 1026-1027.) The CEQA Guidelines show that the relevant inquiry is whether a project would "[s]ubstantially degrade the existing visual character or quality of the site or its surroundings." (Guidelines, appendix G, italics added.)

Substantial evidence includes facts, reasonable assumptions predicated upon facts and expert opinions supported by facts. (Pub. Resources Code, § 21080(e)(1); CEQA Guidelines, §15384(b).) Thus, argument, speculation and unsubstantiated opinion or narrative does not constitute substantial evidence. (Pub. Resources Code, § 21080(e)(2).) It should also be noted that with respect to visual resources, lay testimony constitutes substantial evidence where such input is credible. (See *Bowman v. City of Berkeley, supra*, 122 Cal.App.4th at p. 583.) To this end, the comments submitted by FOWS and TASC regarding visual resources constitutes substantial evidence regarding impacts to scenic resources as well as critique and discussion of the visual analysis study, including the location of key observation points. The Chapter joins in and incorporates the comments submitted by FOWS and TASC. In addition, the Chapter provides the following comments on visual resources. I025-8 cont.

The DEIR concludes that the Project will not result in significant impacts to scenic vistas, scenic resources or the existing visual character or quality of the site and its surroundings. (DEIR 9-32 to 9-43.) Additionally, the DEIR concluded that new sources of light and glare from the Project do not constitute a significant impact. (DEIR 9-45 to 9-48.) The DEIR's conclusion relies upon the visual simulations prepared by Square One Productions. As discussed in FOWS and TASC's comments the analysis contains significant flaws and assumptions and as such the visual simulations do not constitute substantial evidence to support the several determinations that the Project will not result in potentially significant impacts to visual resources.

With respect to scenic and visual resources the proposed Project is not consistent with the Placer County General Plan, the Martis Valley General Plan (2003) and TRPA's Goals and Policies. CEQA requires that an EIR discuss inconsistencies with applicable plans. (CEQA Guidelines, § 15125(d).) Moreover, the Guidelines specifically require discussion of consistency with regional plans for the protection of Lake Tahoe. (*Id.*) Any such inconsistency may constitute evidence that the Project may result in a significant environmental impact. I025-9

The general plan is "at the top of "the hierarchy of local government law regulating land use." (*DaVita v. County of Napa* (1995) 9 Cal.4th 763, 773. The Supreme Court described "the function of a general plan as a "constitution," and labeled it the "basic land use charter governing the direction of future land use" in the locality.

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(*Lesher Communications, Inc. v. City of Walnut* (1950) 52 Cal.3d 531, 540, *DeVita, supra*, 9 Cal.3d at p. 773.) Thus, land use decisions must be consistent with the general plan. (Gov't Code, § 65860(a); *Lesher Communications, Inc., supra,* 9 Cal.3d at p. 541.)

An action is consistent with the general plan if it furthers the objectives and policies of the general plan and does not obstruct their attainment. (*Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 817.) While a court accords deference to an agency's interpretation of its general plan and various elements, an abuse of discretion is established if the agency has not proceeded in a manner required by law, its decision is not supported by findings, or the findings are not supported by substantial evidence. (See Code Civ. Proc., § 1094.5; *Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1563.) An action, however, must be consistent with the very specific and mandatory policies of the general plan. (*Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 785-786, 789.; *Families Unafraid to Uphold Rural El Dorado v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1342.) I025-9 cont.

As discussed in FOWS and TASC's comments, the proposed Project conflicts with the TRPA's Goals and Policies that call for the protection of Lake Tahoe's scenic values. (See TRPA Policy LU-1.1, Goal SR-1.) The proposed Project is also inconsistent with the Placer County General Plan and Martis Valley Community Plan that require the County maintain the character and visual quality of scenic areas. (See MVCP, Policies 4.B.1 and 4.B.2 and Placer County General Plan, Polices 1.K.1 and 1.K.6.) The DEIR fails to adequately discuss the Project's inconsistency with the applicable plans for the protection of Lake Tahoe and Martis Valley. Moreover, the DEIR fails to evaluate whether such inconsistencies may result in significant environmental impact to visual and scenic resources. Thus, the DEIR must be revised to address the Project's inconsistency with the applicable plans and the impacts to scenic resources.

As discussed in FOWS and TASC comments, the DEIR's visual resource analysis does not appear to take into account the height of buildings, which may amount to 75 feet above the ridgeline. (See DEIR 9-9.) Thus, the visual resource analysis failed to evaluate the Project as proposed and fails to provide sufficient information to the public and decisionmakers. As such, the DEIR's visual simulation analysis must be revised to address the potential height of structures on the ridgeline. Without such information and analysis the DEIR's conclusions regarding potential impacts amount to speculation and does not constitute substantial evidence. (See Pub. Resources Code, § 21080(e)(2).) I025-10

The visual simulation used a heightfield bitmap to model the screening effect for the Project. (See letter dated March 5, 2015 from Richard Tsai, Field of Vision to Sydney Cotsworth.) As stated by Mr. Tsai, this methodology may not be appropriate for close range views such as from Fibreboard Freeway. (*Id.*) The use of actual tree models would provide a more accurate result with respect to exposure of residential and street lighting through the trees as well as close range views. (*Id.*) Thus, while the heightfield bitmap may be useful or appropriate for the long-distance views, it may not provide I025-11

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accurate information and analysis for impacts of close range views. As such, the visual resources analysis must be revised. I025-11 cont.

The visual simulation also fails too address all tree removal that would be associated with the Project. While the analysis included tree removal associated with building homes, roads and other infrastructure and project features, the analysis failed to take into consideration tree thinning for forest health and fire prevention, as well as tree removal for defensible spaces around buildings. Thus, the screening from trees, so heavily relied upon in the analysis, may be significantly different and result in different conclusions. I025-12

The visual resource analysis is also inadequate as a result of the DEIR's segmentation of any future development in the basin and the Brockway Campground. Due to the segmentation, the DEIR failed to consider and evaluate any future development in the basin and the development of the Brockway Campground. As such, the visual resources analysis underestimates the potentially significant impacts to scenic views and visual resources. As the applicant has not completely disavowed any future development within the Tahoe Basin as part of the overall development, the visual resource analysis should address the potential impact of units within the Tahoe Basin. Additionally, as the Brockway Campground should be part of the DEIR, it needs to be part of the visual simulation. Therefore, the visual resource analysis must be modified to address the full buildout of the project and not represent the segmented environmental review. I025-13

As the visual simulation must be revised to satisfy CEQA's requirements and substantial evidence does not support the DEIR's no impact conclusion, the County must address mitigation measures to avoid or substantially lessen the potentially significant impacts to visual resources. As discussed in Sierra Club's comments on the Notice of Preparation, the following mitigations for visual impacts should be incorporated into the DEIR:

- Concentrate commercial and residential development in the lower bench area and limit any development in the upper bench to lower elevations, maintaining a several hundred-foot setback from the top of the ridge.

- Minimize visual impacts by limiting commercial buildings and single-family residential units should to a single story. Multi-family residential units should be limited to two stories, and confined to the lower bench.

- The project primarily appears to rely on the screening provided by mature trees to mitigate visual impacts. Thus, the DEIR must include tree survey in any areas in and around the project where the presence or removal of trees may relate to the effectiveness of screening. In addition to tree location, the tree survey should include height and diameter—tree health and age should

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also be surveyed and assigned to individual trees. Screening effectiveness will be influenced by longevity. A conservative approach to this concern is appropriate given stresses to trees based on state's drought (with its indeterminate length), the effects of climate change, and the difficulty of trees under stress to ward off insects and disease. Trees relied on for mitigation may suffer mortality in the near-term; replanting (even when done in a timely manner) may not provide mitigation for many years in the future.

- In addition to tree mortality due to age and poor health, trees retained adjacent to infrastructure but not directly affected often suffer from partially compromised root systems and hydrological changes that hasten their demise. Trees retained in proximity to building footprints, roads and other infrastructure should not necessarily be counted to provide screening over time.

- While a targeted and ongoing tree-planting program is essential in providing screening as mitigation, the DEIR should acknowledge that replanting might be of limited value, since conifers common the site may take 50-100 years to establish themselves and attain the height needed for screening benefit. This must be taken into account when assessing whether impacts can be mitigated below the level of significance.

I025-14 cont.

IV. CONCLUSION

As demonstrated in these comments and the comments submitted by the FOWS and TASC, the DEIR fails to meet CEQA's minimum requirements. Moreover, the DEIR fails as an informational document to the decisionmakers and public. As such the County must address the legal inadequacy and reciruclate a revised DEIR as required by CEQA Guidelines, section 15088.5; see also *Mountain Lion Foundation v. Fish and Game Commission* (1989) 214 Cal.App.3d 1043.)

I025-15

Sincerely,

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I025

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I025-1 The comment provides background information on CEQA requirements and asserts that the Draft EIR is insufficient. As discussed in the following responses and Master Response 1 regarding recirculation, the Draft EIR contains a thorough and adequate analysis of the potential project-specific and cumulative effects of the proposed MVWPSP Project and recirculation of the EIR is not warranted.

The comment also cites comments submitted by Friends of the West Shore and the Tahoe Area Sierra Club. Please refer to responses to comments in letter I018.

I025-2 The comment suggests that the Draft EIR fails to present a detailed project description and cites concerns with the MVWPSP conceptual plan and the flexibility in siting projects within the Specific Plan's land use designations. Please refer to response to comment I018-3. The comment also asserts that the development agreement should be included in the Draft EIR. Please refer to response to comment I051-26.

I025-3 The comment suggests that the Draft EIR segments the environmental review of the project, asserting that the Draft EIR should consider future development in the Lake Tahoe Basin and the Brockway Campground proposal. The suggestion that the Draft EIR analyzes neither future development in the Tahoe Basin nor the Brockway Campground is erroneous. As explained in response to comment I018-7, the project does not propose development or land use changes on lands within the Tahoe Basin and no action by TRPA is required to implement the Specific Plan. The Brockway Campground proposal is listed as a cumulative project in Chapter 4 of the Draft EIR and considered throughout the cumulative impacts of Chapters 5 through 18. Furthermore, the Brockway Campground Project is a separate proposal for which environmental review has not yet commenced, and which will be within the jurisdiction and decision-making authority of both TRPA and Placer County. Please see Master Response 2 regarding the Brockway Campground proposal.

I025-4 The comment raises concerns regarding range of alternatives considered in the Draft EIR. Please see Master Response 10 and response to comment I018-74.

I025-5 The comment raises concerns regarding the baseline used to evaluate potential environmental impacts, stating that it should be based on existing physical conditions. The comment incorrectly states that the impact analysis compares the project impacts with a project that would allow an additional 600 units. The EIR properly acknowledges the current zoning and planned uses for the East Parcel, which would be modified under the proposed project; it does not assume the buildout of the East Parcel as the baseline for project analysis. Please see Master Response 3 regarding the environmental baseline. Also refer to response to comment I018-6.

I025-6 The comment suggests that the analysis of greenhouse gas emissions is inadequate as it is founded on an improper baseline. Please see Master Response 7 regarding the analysis of GHGs as well as Master Response 3 regarding the environmental baseline.

I025-7 The comment raises concerns regarding the "business as usual" approach for analyzing GHG emissions. Please see Master Response 7 regarding the analysis of GHGs.

I025-8 The comment provides background information on CEQA requirements relative to visual resources. The comment indicates the commenter's support for comments submitted by the Friends of the West Shore and Tahoe Area Sierra Club (comment letter I018). Please refer to

responses to comments I018-41 through I018-75, which contain detailed responses to the comments referred to in this comment.

I025-9 The comment states that the proposed project would not be consistent with the Placer County General Plan, MVCP, and TRPA goals and policies. First, as explained in response to comment I018-7, the project does not propose development or land use changes on lands within the Tahoe Basin and no action by TRPA is required to implement the Specific Plan and no EIS is required pursuant to TRPA regulations. CEQA Guidelines Section 15125(d) provides that an EIR shall analyze a project's consistencies with "applicable plans." CEQA does not require an agency analyze a project's consistency with inapplicable plans. (*Chaparral Greens v. City of Chula Vista* (1996) 50 Cal.App.4th 1134, 1145, fn. 7; *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 919.) Second, in response to concerns regarding project consistency with the General Plan and MVCP, the proposed MVWPSP is consistent with *applicable* MVCP and Placer County General Plan policies, as addressed in Chapter 5 and Appendix D of the Draft EIR, including analysis of the project's consistency with General Plan Policies 1.K.1 and 1.K.6; some policies are proposed for change as part of this project, and in that regard please see response to comment I018-5. In addition, please refer to responses to comments I018-41 through I018-75, regarding concerns related to scenic resource analysis.

I025-10 The comment suggests that the visual analysis in the Draft EIR did not take into account the height of buildings allowed by the MVWPSP. The visual analysis included two approaches, a visual profile study that assessed the project site's visibility from numerous viewpoints (see Draft EIR pages 9-9 through 9-25); and visual simulations of the project from the viewpoints with the greatest potential to be adversely affected (see Draft EIR page 9-30 for a description of the approach).

Both of these approaches evaluated the maximum building height allowed under the MVWPSP. As noted on page 9-9 of the DEIR, some of the visual profiles evaluated the visibility of structures of up to 75 feet in height. This provides a conservative evaluation of the visibility of structures because structures on the highest points in the MVWPSP that have the greatest potential for visibility from the Tahoe Basin would be limited to 60 feet in height (see MVWPSP page B22). Furthermore, the visual profiles assessed whether sightlines to structures associated with the MVWPSP would be blocked by topography. The ridgeline that separates the MVWPSP from the Lake Tahoe Basin includes existing trees that are taller than the maximum buildings heights allowed by the MVWPSP, which would also block views of the structures. As described on page 9-30 of the Draft EIR, the visual simulations incorporated three-dimensional models of buildings that assumed that every building "would achieve the maximum allowable height and that they would be measured from the highest point within each building's footprint, rather than the average elevation, as required by Placer County". Thus, the visual analysis in the Draft EIR reflects a conservative approach that considers the maximum building heights that could be allowed under the MVWPSP. See also Master Response 4, which provides additional detail on the visual analysis methodologies.

I025-11 The comment cites a peer-review of the visual simulations prepared for the Draft EIR and refers to a statement in the peer review findings, by Richard Tsai. In his peer review, Richard Tsai suggested using a more specific tree-for-tree model in simulating the effects of close-range impact in views such as the Fibreboard Freeway. At the time of the peer review, the project included 112 acres located in the Tahoe Basin. The boundary of the 112 in-Basin acres touched the Fibreboard Freeway, and the nearest structure was 500 feet from it.

The 112 in-Basin acres were subsequently removed from the project, and the closest structure is separated from Fibreboard Freeway by 1,100 feet of off-site trees and terrain. Square One's terrain modeling indicated that the viewshed of structures would be blocked by

terrain, rather than by trees. Therefore, the preparation of a specific tree-for-tree model would no longer provide benefit to the analysis.

I025-12 The comment suggests that the visual simulations used in the Draft EIR analysis did not reflect tree removal associated with defensible space.

As described on page 3-30 of the Draft EIR, the MVWPSP would require that "defensible space is established and maintained to meet the requirements of NCSD Ordinance 26-09". NCSD Ordinance 26-09 requires a 5-foot buffer around buildings, removal of tree limbs that are within ten feet horizontally or vertically of any structure. It also includes spacing distances for trees within 100 feet of structures. The simulations created three-dimensional models of existing trees and removed trees under the footprint of roads, driveways, and building, within a 10-foot setback from houses and 5 feet from each side of roads. It also simulated 50 percent transparency through the remaining trees (Square One 2015), which provides a conservative representation of tree removal from defensible space or natural mortality outside the ten-foot buffer around structures. This approach provides an accurate visual representation of tree removal consistent with the tree removal requirements in MCSD Ordinance 26-09. See also response to comment I018-61, which addresses this topic.

I025-13 The comment asserts that the proposed Brockway Campground should be considered in the EIR. Please refer to Master Response 2 regarding the Brockway Campground proposal and the cumulative analysis. See also response to comment I025-3, which addresses this topic.

I025-14 The comment requests that the EIR include additional mitigation measures including additional restrictions on building height, prohibiting structures near the top of the ridge, and requiring a detailed tree survey and planting plan. The Draft EIR identified one significant and unavoidable cumulative aesthetic impact of the project, Cumulative Impact 9-9. The nature and extent of this impact was explained in Chapter 9 of the Draft EIR. In sum, the project would result in a considerable contribution to cumulative impacts from light and glare visible *in the Martis Valley*; the MVWPSP would not result in a considerable contribution to cumulative impacts from light and glare visible from nearby recreation areas or the Lake Tahoe Basin.

The State CEQA Guidelines provide direction on mitigation measures (CCR Section 15126.4) stating that "An EIR shall describe feasible measures which could minimize significant adverse impacts…", and clarifying that "Mitigation measures are not required for effects which are not found to be significant." Two of the mitigation measures proposed in the comment address visual effects on the Lake Tahoe Basin (limiting height and the location of development). As described in the Draft EIR, and explained above, development associated with the MVWPSP would not be visible from viewpoints in the Lake Tahoe Basin and would have less-than-significant effects on visual resources in the Lake Tahoe Basin. Therefore, the mitigation measures proposed to reduce impacts on the Lake Tahoe Basin are not necessary or required.

The suggestion for a detailed inventory and planting plan identifying the size, age, and health of individual trees is not necessary to assess impacts of a specific plan nor required by Placer County. Please refer to the response to comment I018-13, which describes the level of detail available in the MVWPSP, and the process for review of subsequent development proposals under the MVWPSP. Because the exact location and characteristics of individual structures within the MVWPSP cannot be known at this time, it is not possible to identify the age, health, size and other characteristics of individual tress that would be removed. It is also not necessary to identify this information or develop a site-specific planting plan because (1) the EIR analysis includes a conservative estimate of tree removal in and surround structures and throughout the MVWPSP (see response to comment I025-12 and I015-61); and (2) the MVWPSP includes standards that limit tree removal to the minimum amount feasible (see

MVWPSP page B5) and minimize construction effects on trees to be retained (MVWPSP page B10), which are enforceable through the County's design/site review process. As discussed above in responses to comments I025-10 through I025-13, the visual resources analysis in the Draft EIR is comprehensive and accurate, using state-of-the-art tools to evaluate visual impacts for development projects. Therefore, the conclusions of the Draft EIR are supported by substantial evidence, and additional mitigation is not required.

I025-15 The comment suggests that the Draft EIR is insufficient and should be recirculated. See responses to comments I025-1 through I025-14 as well as responses to comment letter I018. As discussed in Master Response 1, regarding recirculation, the Draft EIR contains a thorough and adequate analysis environmental effects of the proposed MVWPSP Project, and recirculation of the EIR is not warranted.