PLACER LOCAL AGENCY FORMATION COMMISSION

Robert Weygandt, Chair (County); Gray Allen, Vice-Chair (District); Jim Holmes (County); Bill Kirby (City); E. Howard Rudd, (Public); Ron Treabess (District); Miguel Ucovich (City)

REGULAR HEARING AGENDA
December 10, 2014--4:00 p.m.
Board of Supervisors' Chambers
County Administrative Building
175 Fulweiler Avenue, Auburn, CA 95603

1. **Flag Salute**

2. **Call to Order and Roll Call**

3. **Approval of Agenda** (Action item)

4. **Public Comment:** This is the time when persons may address the Commission on items not on the agenda. Please limit comments to three (3) minutes as the Commission is not permitted to take any action on items presented as public comment.

5 **Approval of Minutes:** From the November 12, 2014 hearing. (Action item, pg. 2)

6. **Olympic Valley Incorporation proposal:** (pg. 4)
   a. Status update on the proposed Incorporation of Olympic Valley proposal.
   c. Take Public Comment on Olympic Valley proposal.

7. **Authorize Contract for LAFCO legal services:** (Action item, pg. 70) The Commission will be asked to approve a contract with the Law Office of William Wright for legal services.

8. **Executive Officer Reports:**
   Legislative Committee
   Proposal Status
   Status of Municipal Service Reviews

9. **Commissioner Reports:**

10. **Adjournment:**

For further information or to provide written comments on any item on the agenda, please contact the Placer LAFCO. Materials related to an item on this Agenda submitted to the Commission after distribution of the agenda packet are available for public inspection in the Placer LAFCO office at 110 Maple Street, Auburn, CA 95603 during normal business hours. Phone: (530) 889-4097. Placer LAFCO is committed to ensuring that persons with disabilities are provided the resources to participate in its meetings. If you require a disability-related accommodation, please contact the Clerk to the Commission at least two business days prior to the meeting date.

December 10, 2014
Item No. 5

LACER LOCAL AGENCY FORMATION COMMISSION

Robert Weygandt, Chair (County); Gray Allen, Vice-Chair (District); Jim Holmes (County); Bill Kirby (City); E. Howard Rudd, (Public); Ron Treabess (District); Miguel Ucovich (City)

Minutes
November 12, 2014--4:00 p.m.

1. Flag Salute was led by Commissioner Kirby.

2. Call to Order and Roll Call: Chairman Weygandt called the hearing to order at 4:02 p.m. Commissioners present and seated: Allen, Treabess, Rudd, Kirby, and Weygandt. Staff present: Executive Officer Kris Berry, LAFCO Counsel Bill Wright, and Commission Clerk Linda Wilkie.

3. Approval of Agenda: The agenda was approved as submitted by motion: Rudd/Treabess/ 5:2 (Ucovich and Holmes absent)

4. Public Comment: Ms. Berry informed the Commission that she had received an email from Ellie Waller requesting that her email be read into the Public Comment. Ms. Waller stated that she wished to be informed when LAFCO would determine the possible annexation of the Martis Valley West Parcel and that the hearing be held in the Tahoe area. Ms. Berry stated that she informed Ms. Waller that LAFCO had not received the application yet, and the Commission agreed that the item should be heard in Tahoe.

5 Approval of Minutes from the October 8, 2014 hearing: Approved as submitted by motion: Allen/Rudd/5:2 (Ucovich and Holmes absent)

6. Presentation of the Placer County Conservation Plan. A presentation of the Placer County Conservation Plan was given to the Commission. Loren Clark gave a very interesting and informative presentation.

7. Olympic Valley Incorporation proposal:

a. Status update on the proposed Incorporation of Olympic Valley proposal. Ms. Berry said that she and two of the fiscal consultants from RSG met with the Incorporate Olympic Valley proponents and Andy Wirth to kick off the beginning of the fiscal analysis. She said that the next step will be to meet with the county officials and send out requests for information. She also stated that a notice was sent out regarding the draft EIR and that comments are due by November 25th.

b. Take Public Comment on Olympic Valley proposal:

Stan Devereux, representing Squaw Valley Ski Holdings, stated that the majority of homeowners in the area are against the incorporation but are not represented because they are not registered voters in the area, they are the visitors and property owners of second homes and businesses. He stated that they control over 50% of the town ownership and generate the majority of the revenue. He asked if the Commission was going to respond to the letters of concern that had been submitted and if it is the Commission's intent to only represent those who are registered to vote within the boundaries. He also stated that the Commission should address what the actual boundaries will be before spending money on the CFA or EIR.

Dr. Fred Ilfeld with the IOV commented on Mr. Devereux's comment. Dr. Ilfeld felt that Mr. Devereux meant users of the area because residents can register to vote and won't be excluded. He stated that the IOV is very thrilled with the consultants and is excited to get started on the CFA.

8. Amendment to the Fiscal Year 2014-2015 Adopted Budget: The Commission was asked to amend the Adopted Budget to include the $85,360 amount submitted to LAFCO by the IOV for the CFA: Approved by motion: Rudd/Kirby/5:2 (Ucovich and Holmes absent)

9. Executive Officer Reports:

Legislative Committee: Ms. Berry reminded the Commission that she and Commissioner Kirby are on the committee but that a course of action has not been decided by the committee yet.

Proposal Status: IOV is the main proposal but anticipate applications coming in from the City of Rocklin for an island area and also one for area at William Jessup. Will be setting up some Ad Hoc committee meetings regarding NID.

Status of Municipal Service Reviews: Consultants are working on the draft MSR for the west slope fire districts. The draft MSR on the Martis Valley/Tahoe area should been in soon also.

10. Commissioner Reports: Commissioner Kirby stated that the CALAFCO Board of Directors would be meeting on Friday, 11/14/14. The Board is working on Joint Powers Authorities which do not currently report to LAFCOs and would like them to for informational purposes.

11. Adjournment: Chairman Weygandt adjourned the hearing at 5:00 p.m.

_____

Linda Wilkie, Clerk to the Commission

December 10, 2014
Item No. 6

PLACER COUNTY
LOCAL AGENCY FORMATION COMMISSION

110 Maple Street, Auburn California 95603 530-889-4097
Email: lafco@placer.ca.gov

STAFF REPORT

DATE: December 3, 2014

TO: Chairman Weygandt, Commissioners Allen, Holmes, Kirby, Rudd, Treabess, Ucovich. Alternate Commissioners Duran, Gray, Nader, Sheehan.

FROM: Kris Berry, AICP, Executive Officer

SUBJECT: Town of Olympic Valley Incorporation proposal update.

RECOMMENDATION:

It is recommended that the Commission:

a. Receive a status update on the Incorporation Proposal.
b. Receive Public Comment on the Incorporate Olympic Valley Proposal

SUMMARY:

Status Update:

A Notice of Preparation for a Draft Environmental Impact Report for the Incorporation proposal was circulated with a final deadline of November 26, 2014. A public scoping meeting was held on November 18, 2014 at the Squaw Valley Public Service Dstrict, with approximately 28 attendees. Comments received regarding the Notice of Preparation are attached as Exhibit "1." The Scope of Work for the Request for proposals will be finalized in the next few weeks, and will be sent to bid to qualified consultants.

The Consultants preparing the Comprehensive Fiscal Analysis (RSG) have begun sending out requests for information to the county and other agencies requesting the fiscal information that is required to analyze the fiscal impacts of the incorporation. This information is being requested to be completed and returned by January 5, 2015. You will receive a more detailed report on the status of the information collection at the January 14, 2015 hearing.

Public Comment:

It is recommended that the Commission open the hearing for public comment regarding the Incorporation proposal at this time.

Attachments:

Exhibit "1" Comments received regarding the Notice of Preparation of a DEIR
Exhibit "2" Boundary change request letter.

EXHIBIT 1

Notice of Preparation Comments

STATE OF CALIFORNIA
NATIVE AMERICAN HERITAGE COMMISSION
1550 Harbor Blvd., ROOM 100
West SACRAMENTO, CA 95691
(916) 373-3710
Fax (916) 373-5471

Edmond G. Brown, Jr., *Governor*

November 6, 2014

RECEIVED
NOV 10 2014
LAFCO

Kristina Berry
Placer County Local Agency Formation Commission (LAFCO)
110 Maple Street
Auburn, CA 95603

RE: SCH# 2014102064 Town of Olympic Village Incorporation, Placer County.

Dear Ms. Berry,

The Native American Heritage Commission (NAHC) has reviewed the Notice of Preparation (NOP) referenced above. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA Guidelines 15064(b)). To comply with this provision the lead agency is required to assess whether the project will have an adverse impact on historical resources within the area of project effect (APE), and if so to mitigate that effect. To adequately assess and mitigate project-related impacts to archaeological resources, the NAHC recommends the following actions:

- ✓ Contact the appropriate regional archaeological Information Center for a record search. The record search will determine:
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measurers should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for pubic disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission for:
  - A Sacred Lands File Check. **USGS 7.5-minute quadrangle name, township, range, and section required**
  - A list of appropriate Native American contacts for consultation concerning the project site and to assist in the mitigation measures.
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) Guidelines §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered cultural items that are not burial associated, which are addressed in Public Resources Code (PRC) §5097.98, in consultation with culturally affiliated Native Americans.
  - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, PRC §5097.98, and CEQA Guidelines §15064.5(e), address the process to be followed in the event of an accidental discovery of any human remains and associated grave goods in a location other than a dedicated cemetery.

Sincerely,

Katy Sanchez

Katy Sanchez
Associate Government Program Analyst

CC: State Clearinghouse

STOEL RIVES LLP
ATTORNEYS AT LAW

RECEIVED
NOV 17 2014
LAFCO

10008 S.E. River Street
Truckee, California 96161
main 530.582.2280
fax 530.582.2281
www.stoel.com

GREG C. GATTO
Direct (530) 582-2288
gcgatto@stoel.com

November 13, 2014

VIA E-MAIL KBERRY@PLACER.CA.GOV
AND US MAIL

Kristina Berry, AICP
Executive Officer
Placer County LAFCO
110 Maple Street
Auburn, CA 95603

Re: Notice of Preparation of a Draft Environmental Impact Report for the Town of Olympic Valley Incorporation Project.

Dear Ms. Berry:

Thank you for the opportunity to comment on the Notice of Preparation ("NOP") of a Draft Environment Impact Report ("EIR") for the proposed Town of Olympic Valley Incorporation Project ("Project"). This letter is submitted on behalf of Julie S. Carville, trustee of the Julie S. Carville Trust, dated December 18, 1997, and Philip P. Carville, trustee of the Carville Family Trust, dated December 10, 2003 (collectively the "Carvilles"). The Carvilles are the owners of an approximately 10.5 acre parcel of property, APN 096-540-013, located off of Washoe Drive in Olympic Valley, California (the "Carville Property"). The Carville Property is located within the proposed boundaries of the Project.

The NOP states that "it is anticipated that the EIR will include at least one alternative with modified incorporation boundaries." The Carvilles request that any modified boundary alternative analysis exclude the Carville Property from the corporate boundaries.

Thank you for your attention to our comments.

Respectfully,

Greg C. Gatto

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STOEL RIVES LLP
ATTORNEYS AT LAW

10008 S.E. River Street
Truckee, California 96161
main 530.582.2280
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RECEIVED
NOV 17 2014
LAFCO

GREG C. GATTO
Direct (530) 582-2288
gcgatto@stoel.com

November 13, 2014

VIA E-MAIL KBERRY@PLACER.CA.GOV
AND US MAIL

Kristina Berry, AICP
Executive Officer
Placer County LAFCO
110 Maple Street
Auburn, CA 95603

Re: Notice of Preparation of a Draft Environmental Impact Report for the Town of Olympic Valley Incorporation Project.

Dear Ms. Berry:

Thank you for the opportunity to comment on the Notice of Preparation ("NOP") of a Draft Environment Impact Report ("EIR") for the proposed Town of Olympic Valley Incorporation Project ("Project"). This letter is submitted on behalf of the Squaw Valley Lodge Owners Association ("SVLOA"). SVLOA is a 218 member/unit condominium style hotel located on 3.5 acres at 201 Squaw Creek Road, in Olympic Valley, California. The SVLOA property is located within the proposed boundaries of the Project.

SVLOA previously submitted letters to LAFCO regarding the proposed Project on June 9, 2014, and July 8, 2014. Both of these letters requested that the SVLOA property be excluded from the boundaries of the proposed incorporation. SVLOA reiterates this request, and submits the following comments on the scope and content of the EIR for the Project.

ALTERNATIVES

The NOP states that "it is anticipated that the EIR will include at least one alternative with modified incorporation boundaries." SVLOA concurs with the decision to include a modified incorporation boundary alternative, and requests that any modified boundary alternative analysis exclude the SVLOA property from the corporate boundaries.

DETERIORATION AND BLIGHT CONDITIONS

As outlined in SVLOA's June 9, 2014 letter to LAFCO, the proposed incorporation is fraught with potential economic pitfalls, including litigation risks, declining real estate values, additional taxes and/or punitive revenue sources, as well as a lack of resources/facilities. These economic risks may cause property owners, business owners, and investors to abscond from the area. It is likely that visitor trips will also decrease as businesses leave, and the level of public services decrease. These economic effects have the potential for an indirect effect on the environment, leading to deterioration and blight conditions as a result of vacant buildings and neglect, adverse physical impacts that must be analyzed under CEQA. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1207; CEQA Guidelines §§15064(e), 15131.) SVLOA therefore requests that the EIR include an analysis of the potential for urban decay not only within the Project area, but in the surrounding Tahoe communities as well. (*See* Gov. Code § 56668(c).)

Thank you again for your attention to our comments.

Respectfully,

Greg C. Gatto

cc: SVLOA Board

77564124.1 0092350-00012

OLYMPIC VALLEY INCORPORATION PROJECT
ENVIRONMENTAL IMPACT REPORT (EIR) SCOPING MEETING

COMMENT FORM

To be added/corrected on our mailing list and to document the author of comments received, please provide the following information. Thank you.

Name: CARL GUSTAFSON P.E. CIVIL #18629

Address: P.O. BOX 2259 OLYMPIC VALLEY CA 96146
330 WINDING CREEK ROAD

Organization: BOTTOM RESIDENT OF SQUAW VALLEY
FULL TIME HOMEOWNER 583-6845

Please provide us with your written comments on the EIR by **5:00 pm, November 26, 2014.**

QUESTIONS?

(1) WHO DETERMINED THE EXACT BOUNDARIES OF THE PROPOSED TOWN?

(2) IS THERE ANY EXACT LEGAL MEETS & BOUNDS DESCRIPTION & SURVEY SHOWING THE EXTERIOR BOUNDARIES OF THE PROPOSED TOWN PREPARED BY A CALIF. LICENSED LAND SURVEYOR. SHOWING THESE EXTERIOR BOUNDARIES ON A PLAT OF SURVEY (MAP) APPROVED BY THE PLACER CO. SURVEYOR,

RESPECTFULLY SUBMITTED BY
CARL RICHARD GUSTAFSON PE
REG. CALIF PROFESSIONAL
CIVIL ENGINEER
LICENSED TO LAND SURVEYING
RCE # 18,629

Send comments to:

Kristina Berry
Executive Officer
Placer County LAFCO
110 Maple Street
Auburn, CA 95603
kberry@placer.ca.gov

Rec 11/18/2014
@ Scoping Mtg

Michael G. Colantuono
MColantuono@chwlaw.us
(530) 432-7359

Colantuono, Highsmith & Whatley, PC
11364 Pleasant Valley Road
Penn Valley, CA 95946-9000
Main: (530) 432-7357
FAX: (530) 432-7356
WWW.CHWLAW.US

November 18, 2014

VIA E-MAIL AND U.S. MAIL

Kristina Berry, Executive Officer
Placer County LAFCO
110 Maple Street
Auburn, CA 95603

Re: **Notice of Preparation of an Environmental Impact Report for Olympic Valley Incorporation Proposal (LAFCO No. 2013-02)**

Dear Ms. Berry:

I write on behalf of Incorporate Olympic Valley regarding the Notice of Preparation of an Environmental Impact Report ("EIR") for the proposed incorporation of a new town of Olympic Valley. Incorporate Olympic Valley is concerned that the proposed scope of the EIR exceeds the required bounds under CEQA. The EIR should only discuss potentially significant environmental impacts from the incorporation itself, and must not speculate as to the impacts from decisions which will be made in the future by the newly elected Town Council.

The Notice of Preparation states that the EIR will include the analysis required by Government Code section 56668. (See pp. 5–6.) Government Code section 56668 lists a variety of factors that the Placer County LAFCO must consider when reviewing the proposed incorporation. Some, but not all, of these factors are appropriate for consideration in an EIR. However, many of the factors are not appropriate for consideration in an EIR, because they exceed the narrow bounds of an EIR's focus. Instead of discussing all aspects of the incorporation which will be considered by LAFCO in its review, the EIR must be limited to reasonably foreseeable potentially significant environmental impacts of the proposed incorporation. In particular, the EIR should not evaluate whether the new town will able to provide services at the proposed level, as this analysis will be completed as part of the CFA. The EIR should discuss the environmental impacts, if any, from the anticipated changes in service providers, and at most may consider the environmental impacts of increased public services as a result of build-out under the county's existing zoning. Further guessing as to the impacts from potential future demand for public services is inappropriate for review in an EIR, because it is too speculative.

140517.2

Similarly, the EIR should only consider issues raised by the Comprehensive Fiscal Analysis ("CFA") to the extent those issues constitute potentially significant environmental impacts. The EIR and the CFA are separate documents, with separate purposes and governed by separate statutes, and LAFCO must limit each document to its appropriate realm.

As correctly stated in the NOP, the proposed incorporation will not result in any change in land use policies for Olympic Valley. Instead, the new town, as required, will adopt the county's existing zoning ordinance and General Plan as an interim measure until it can develop its own land use policies. (Gov't Code § 57376.) The new town and its newly elected Town Council will only be able to adopt a zoning ordinance and General Plan after full review of those policies under CEQA. Therefore, the EIR's discussion of potentially significant environmental impacts must be limited to potential impacts stemming from build-out under the existing county zoning and General Plan designations. Any potential impacts due to possible future land use policy changes made by the new town are not reasonably foreseeable, cannot be effectively analyzed, and are inappropriate for analysis in the EIR. (See *Friends of Sierra Railroad v. Tuolumne Park and Recreation District* (2007) 147 Cal.App.4th 643, 655–656 ["CEQA review is premature if the agency action in question occurs too early in the planning process to allow meaningful analysis of potential impacts."].)

Any analysis of potential environmental impacts stemming from land use policy changes made in response to economic challenges that may arise as a consequence of global climate change and the associated impact on the ski resort industry is inappropriate for an EIR for several reasons. First, this analysis would be entirely speculative, since it would evaluate the impacts of land use policy changes not yet made by policymakers who are not yet elected in response to economic challenges that have not yet occurred, based on assumptions regarding the impact of global climate change. Second, this argument, as advanced by opponents of incorporation, assumes that the new town will seek to expand development in the valley when there is no evidence that the yet-to-be elected Town Council will take that approach in response to this hypothetical economic challenge. Analysis of potentially significant environmental impacts under CEQA is limited to those impacts which are reasonably foreseeable. Assumed impacts stemming from the outcome of a political process that has yet to occur are not reasonably foreseeable.

Additionally, CEQA requires analysis of a project's potentially significant environmental impacts, not analysis of the environment's impacts on a project, as is called for by this theory. (See *Ballona Wetlands Land Trust v. City of Los Angeles*

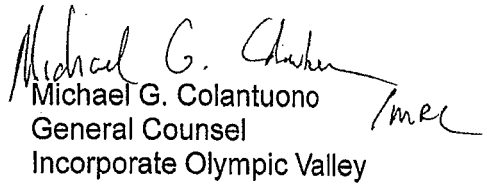
(2011) 201 Cal.App.4th 455, 473 ["the purpose of an EIR is to identify the significant effects of a project on the environment, not the significant effects of the environment on the project."].) This argument calls for a detailed analysis of the effects of global climate change on the economic viability of the new town, a subject appropriate for the CFA, not the EIR.

With regard to fire protection service, the proposed incorporation will not result in any changes in service providers or levels of service and thus will not cause any potentially significant environmental impacts requiring analysis in the EIR. After incorporation, fire protection and emergency medical services will continue to be provided by the Squaw Valley Public Service District. Cal-Fire will continue to provide wildland fire protection service, by contract with the new town under Public Resources Code section 4144, reflecting the town's new status as a Local Responsibility Area under Public Resources Code section 4127, subdivision (b). These are the same entities who currently provide fire and emergency medical services for the community. The new town will be required to maintain the existing service levels during the initial transition year. Further, Incorporate Olympic Valley's proposal is to contract with Cal-Fire to maintain current wildland fire protection service levels. Since the fire protection providers and levels of service will not change, the proposed incorporation will not cause any environmental impacts an EIR might study.

The EIR's Alternatives analysis must be limited to a reasonable range of feasible alternatives. (See CEQA Guidelines, § 15126.6, subd. (a).) In evaluating whether an alternative is feasible, LAFCO should rely on the CFA, and should not analyze any alternative that the CFA deems financially non-viable, since that renders the alternative infeasible.

Thank you for your consideration. If we can provide further information to assist your efforts in completing the EIR, please let me know. Incorporate Olympic Valley looks forward to continued collaboration with LAFCO, the County, the community, and other stakeholders as its proposal moves forward.

Sincerely,



Michael G. Colantuono
General Counsel
Incorporate Olympic Valley

MGC:mts

140517.2

c: Dr. Fred Ilfeld, Chair and Members of the Incorporate OV Foundation Board
Bill Wright, LAFCO General Counsel

140517.2

BOARD OF DIRECTORS
LOU REINKENS
DAN WILKINS
ERIK HENRIKSON
RON TREABESS
JUDY FRIEDMAN

75 Years of Service 1938 - 2013

CINDY GUSTAFSON
GENERAL MANAGER

Tahoe City Public Utility District

November 21, 2014

RECEIVED
DEC 01 2014
LAFCO

Kristina Berry, Executive Officer
Placer LAFCO
110 Maple Street
Auburn, CA 95603

Dear Kris:

Thank you for the opportunity to submit comments on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the Town of Olympic Valley Incorporation Project. Tahoe City Public Utility District (TCPUD) is neither opposed to, nor supportive of, the effort to incorporate Olympic Valley. In general TCPUD supports local control of services. These comments are provided to ensure that the following issues are fully analyzed and addressed in the EIR.

1) **Project Description**: The purposes for the project state that the community would obtain greater self-determination, including "better utilization of the revenues generated in Olympic Valley. . ." Currently revenues generated within Olympic Valley are used to support a variety of facilities and services that benefit residents and visitors to Olympic Valley. Many of these facilities are located outside the Proposed Incorporation Boundary. Any reduction in these revenues would result in either a reduction of services or an unfair burden on the other taxpayers and residents of the region.

TCPUD operates numerous facilities that serve residents and visitors to Olympic Valley. These facilities are located outside of Olympic Valley and are <u>not</u> duplicated within Olympic Valley. The most significant of the facilities are: Truckee River Bicycle Trail, 64 Acres -Truckee River Access, Commons Beach, Pomin Field, Lake Forest Boat Ramp, Rideout Community Center, Tahoe Lake School fields, and North Tahoe High School fields. Each of these facilities provides recreational opportunities that are not duplicated within Olympic Valley and have demonstrated use by Olympic Valley residents. These facilities are maintained and improved primarily through funding from TCPUD's share of property tax, and in several cases, some support from Placer County through Transient Occupancy Tax for infrastructure improvements and maintenance grants. The taxpayers of TCPUD have historically been overburdened in providing the majority of funding for these facilities without assistance from the taxpayers of the proposed incorporated boundaries. Any funding reduction to Placer County, could result in an increased burden on the taxpayers of TCPUD or adverse environmental impact due to a reduction of maintenance or operational services.

2) **NOP's Proposed Plan of Services**: The NOP states that "SVPSD provides water, sewer, and trash services, as well as fire protection and emergency medical services." This is not a completely accurate description. TCPUD serves areas within the Truckee River corridor portion of the proposed incorporation.

P.O. Box 5249, 221 Fairway Drive, Tahoe City, California 96145 (530)583-3796 • FAX (530)583-1475

TCPUD provides water, sewer and maintenance of the Truckee River Trail within this area. (See attached map for an exhibit of TCPUD's boundaries within the Truckee River corridor which overlap the proposed boundaries of the incorporation.) This potential overlap of taxation and services within the proposed boundaries must be addressed to ensure that there is not a diminution of services, reduction in funding, service overlap, or inefficiency created by the proposed incorporation. The environmental document should address any potential of taxpayers being negatively impacted by either inclusion or exclusion based upon the proposed incorporation boundaries.

We very much appreciate the opportunity to comment on the NOP and look forward to responses to the above comments.

Please contact me at 530 580-6326 or cindyg@tcpud.org, if you have any questions.

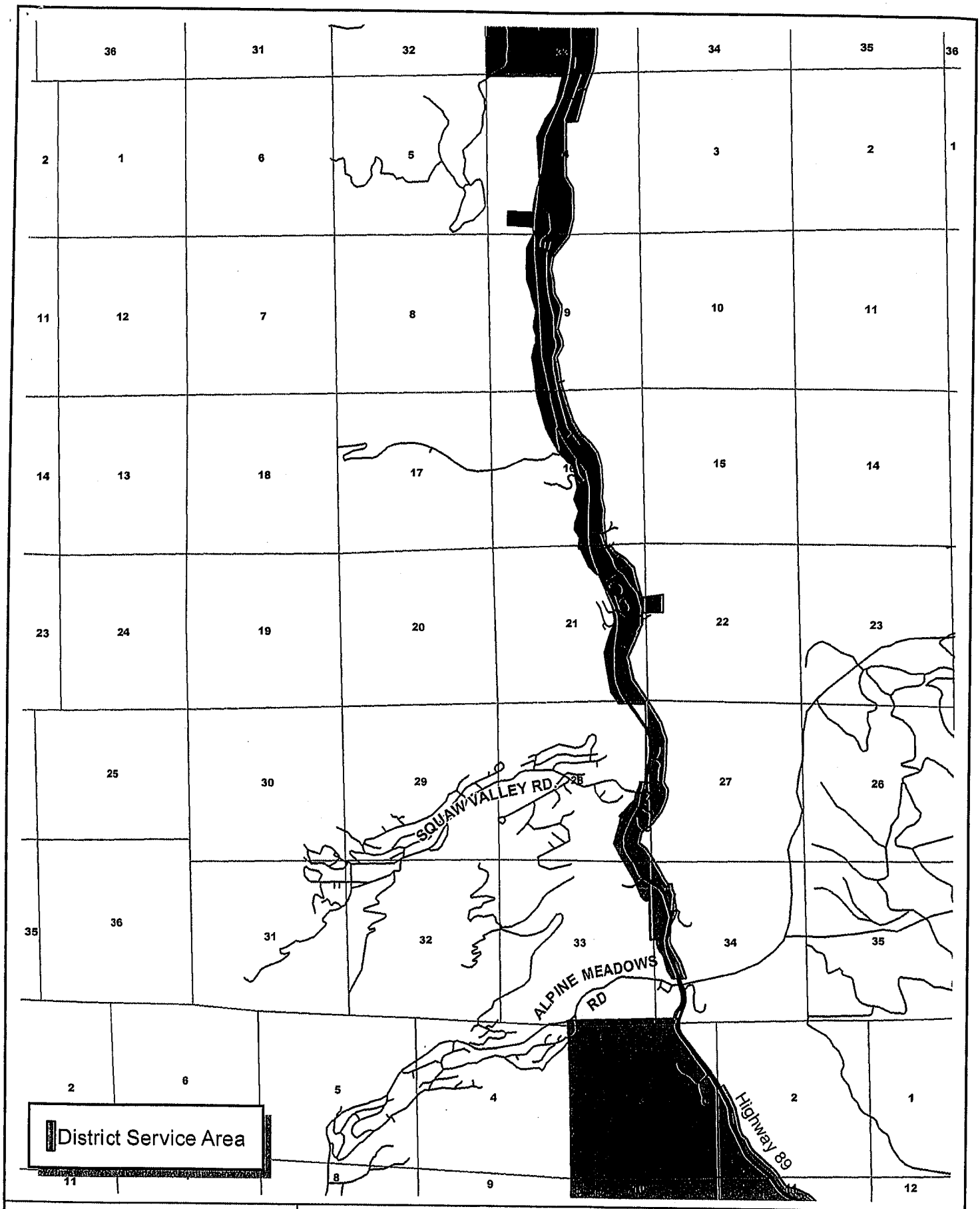
Sincerely,

TML For

Cindy Gustafson
General Manager

Attachments (1)

cc: David Boesch, Placer County, Placer County, 145 Fulweiler Ave., Auburn, CA 95603
Mike Geary, Squaw Valley PSD, P.O. Box 2026, Olympic Valley, CA 96145



TAHOE CITY PUBLIC UTILITY DISTRICT
P.O. BOX 5249
TAHOE CITY, CA. 96145
(530) 583-3796

Tahoe City Public Utility District Service Area Boundary

Author: SB
Date: 11/18/14

Kris Berry

From: Jamie Morgan <jamie@morgans.ca>
Sent: Monday, November 24, 2014 10:37 AM
To: Kris Berry
Subject: Object to requirement for EIR for IOV

I object to KSF and SVSH requesting an EIR for Incorporating Olympic Valley. The incorporation does not involve any physical changes that would impact the environment, unlike SVSH's proposed development.

- The EIR does not have to be all-inclusive. The EIR may only analyze the potential environmental impacts of the incorporation.
- The EIR should not analyze all aspects of incorporation that LAFCO will be considering its broad review. For instance, the financial viability of the town will be covered in the Comprehensive Fiscal Analysis
- The EIR must be limited to reasonably foreseeable environmental impacts. Any impacts which are purely speculative should not be analyzed.
- The incorporation will not change the provider of wildland fire protection services, which will continue to be Cal-Fire by contract, thus there are no potential environmental impacts related to fire protection.

--
Jamie Morgan
(415) 225-0190
Jamie@Morgans.CA

Kris Berry

From: Mark Fisher <mark@unofficialalpine.com>
Sent: Monday, November 24, 2014 10:47 AM
To: Kris Berry
Subject: NOP Comment Regarding Proposal For Incorporation Of Olympic Valley

Dear Mrs Berry -

I am writing to share my comments on Notice of Preparation for the EIR for the incorporation of Olympic Valley. While I am not a resident of Olympic Valley, nor Placer County, I live one half block from Placer County in Truckee. I understand the development proposal in Olympic Valley by Squaw Valley Real Estate will have far reaching impacts on the greater North Lake Tahoe and Truckee area. I am not sure that SVRE and KSL Capital represent the best interests of these communities, and I am a firm believer that coal self-determination will be better for all of us.

The incorporation effort in Olympic Valley will not directly impact the environment of Olympic Valley itself. Nobody can possibly predict the out come of what an elected town council might decide for the future of the Valley. I think it is reprehensible of SVRE and KSL Capital to suggest that a full EIR is required for incorporation. I believe that they are simply trying to kill the incorporation effort by draining their financial resources. Every action they have taken regarding the incorporation has demonstrated the same disregard for the will of the local population.

I urge the Commission to address the need for an EIR in a way that addresses real concerns, with a minim burden of expense on those that are hoping to regain local control of the community. Thank you for the opportunity to comment.

Mark Fisher
Truckee California

Kris Berry

From: LR - <larryrosenberg@hotmail.com>
Sent: Monday, November 24, 2014 12:48 PM
To: Kris Berry
Subject: Olympic Valley EIR

Dear Kris Berry, Executive Director of the Placer County Local Agency Formation Commission,

I just wanted to provide some input regarding the Olympic Valley EIR. It seems to me that the push for a full EIR by Squaw Valley Real Estate and KSL Capital is an obvious attempt to drain IOV (Incorporate Olympic Valley) of its finances. Please note that I copied the below content directly from the IOV website because I completely agree with it.

1. The EIR does not have to be all-inclusive. The EIR may only analyze the potential environmental impacts of the incorporation.
2. The EIR should not analyze all aspects of incorporation that LAFCO will be considering its broad review. For instance, the financial viability of the town will be covered in the Comprehensive Fiscal Analysis .
3. EIR may only analyze potentially significant environmental impacts of the proposed incorporation itself, not impacts from future decisions which may be made by the Town Council.
4. EIR must be limited to reasonably foreseeable environmental impacts. Any impacts which are purely speculative should not be analyzed.
5. EIR should not speculate as to future decisions which will be made by the Town Council once elected, including future decisions regarding public service funding levels and land use planning.

Thank you for your time and consideration.

Sincerely,
Larry Rosenberg

Kris Berry

From: Frank Solinsky <dubug7@gmail.com>
Sent: Monday, November 24, 2014 2:58 PM
To: Kris Berry
Subject: Olympic valley eir

I have skied at Squaw since 1974 and been a homeowner since 1989. I see no reason for an eir. All the paper created from researching an eir will cause more harm to the environment than anything a new town can do. If anything, the new town of Olympic Valley will help the environment because it will make Ski Corp be better citizens and more responsible...Frank Solinsky....1720 sandy Way, Olympic valley

Kris Berry

From: June Lund <junelund@aol.com>
Sent: Monday, November 24, 2014 8:48 AM
To: Kris Berry
Cc: LAFCO Placer Local Agency Formation Commission
Subject: Against Incorporation of Squaw Valley

Kristina: My husband and I own property at Squaw Valley (Unit 302, Squaw Valley Lodge.) We are AGAINST the incorporation of Squaw Valley for a variety of reasons already expressed by the Board of Squaw Valley Lodge and other entities including Squaw Valley Ski Corporation, whose position we support. It appears that there are 7000 + property owners in Squaw Valley, but less than 500 property owners actually have the right to vote in Placer County. Of these property owners, only a small percentage (less than 10%? — 50 people?) appear to be pushing for this incorporation. The impact will be felt by all property owners, not the very few with a beef against KSL or Squaw Valley Ski Corp.

Regards,
June and John Lund
Unit 302
Squaw Valley Lodge
Olympic Valley, CA

650-740-7771 cell

ESA

2600 Capitol Avenue
Suite 200
Sacramento, CA 95816
916.564.4500 phone
916.564.4501 fax

www.esassoc.com

memorandum

date November 24, 2014

to Kristina Berry, Executive Officer, Placer County Local Agency Formation Commission

cc LAFCO Commissioners: Robert Weygandt (Chair), E. Howard Rudd, Gray Allen, Donna Barkle, Jim Holmes, Ron Treabess, Miguel Ucovich
LAFCO Counsel, William Wright

from Brian D. Boxer, AICP, ESA Senior Vice President/Community Development Practice Leader

subject Olympic Valley Incorporation Project Draft EIR Notice of Preparation

Environmental Science Associates (ESA) submits this memorandum on behalf of Squaw Valley Ski Holdings, LLC (Squaw Valley) for the consideration of the Placer County Local Area Formation Commission (LAFCO) in response to LAFCO's Notice of Preparation of a Draft Environmental Impact Report for the Town of Olympic Valley Incorporation Project. For the reasons explained herein, LAFCO should require the preparation of a complete environmental impact report (EIR), including in-depth analysis of the resource categories outlined below prior to considering the IOV Project.

Overview and Summary

CEQA requires a broad assessment of the potential effects of a proposed action that provides "the fullest possible protection to the environment." The EIR addressing the proposed incorporation of Olympic Valley must assess environmental impacts in light of reasonably foreseeable conditions that could result from the proposed project. The proposed incorporation would forever change the revenue base that would be available to provide services and protect the environment of the Valley. These changes, especially in the context of predictable changed climate conditions, will create incentives for the incorporated city to grow and diversify the tax base. The fiscal incentives in land use decision making is well known; the Public Policy Institute of California has clearly stated that "land use decisions are now driven by their fiscal consequences."[1]

While many California communities have incorporated and have done so with minimal consideration of environmental consequences, the facts lead to a different conclusion here. Olympic Valley is located in a particularly environmentally sensitive setting, quite different from the built out communities in major metropolitan areas of the State. Olympic Valley is a small place with a year-round residential population of less than 1,000 people and a tax base that is driven by a comparatively limited number of businesses, all of which are

[1] Jeffrey I. Chapman, *Proposition 13: Some Unintended Consequences,* Public Policy Institute of California, 1998.

largely dependent on the ski and tourism industry, again, quite different from the communities of many thousands with broad economies that have incorporated around California. The economy of Olympic Valley is particularly vulnerable to climatic conditions; the scientific consensus is that the climate is undergoing changes, and these changes will have material effects on the economy and environment of Olympic Valley. Olympic Valley differs from communities that are not economically dependent on snow-driven tourism.

It is reasonably foreseeable that in the unique situation of Olympic Valley, the future conditions under an incorporated city could be quite different from the conditions under a larger, more economically stable County government. In order to meet the requirements of CEQA, the environmental implications of these differences must be addressed in a comprehensive EIR.

Adequacy of the NOP

Requirements for the content of a Notice of Preparation (NOP) are established by PRC §21080.4 and more specifically in State CEQA Guidelines §15082 which states that an NOP must include:

- A description of the project,
- The location of the project, and
- The probable environmental effects of the project.

The NOP includes both a description of the proposed project and the location of the project, including maps of the proposed boundaries of the proposed city of Olympic Valley. However, rather than a description of the probable environmental effects, the NOP includes a general description of the analyses that LAFCO intends to include in the EIR. This is expressly acknowledged in the NOP which states that "Placer County LAFCO has reviewed the proposed project application and has determined that the EIR should address the topics identified below."

A more specific example is provided on page six of the NOP, which states the following regarding Climate Change: "the Climate Change chapter will include an in-depth discussion of climate change regulations, past to present, as well as a full range of scientific findings related to climate change. The relationship between the proposed project and global climate change will be evaluated." This statement fails to indicate the lead agency's assessment of the probable environmental effects of the project related to climate change. It is impossible to tell whether the intent is to analyze climate change in terms of potential emissions of greenhouse gases, changes related to the predicted effects of climate change on local and regional meteorology, hydrology and snow pack, or some other aspect of climate change. The same lack of discussion of probable environmental effects is found in the NOP's discussion of other issues intended for inclusion in the EIR: Land Use and Planning, Public Services, Utilities, and Cumulative Impacts. In this way, the NOP fails to meet the basic requirements established in State CEQA Guidelines §15082 and makes opaque LAFCO's intended focus of analysis in the EIR.

CEQA Requirements for an EIR

The State CEQA Guidelines provide the framework in which LAFCO is required to consider the appropriate scope of analysis in an EIR. Section 15064(d) of the Guidelines states that

> In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which *may* be caused by the project and reasonably

foreseeable indirect physical changes in the environment which *may* be caused by the project. [emphasis added]

The Guidelines clearly emphasize that the potential effects of an action must be viewed broadly, not simply related to what would occur in a limited interpretation of the action, but in a broad sense considering what may occur as a result of the action. This necessarily requires a careful and expansive interpretation of effects that could reasonably be forecast to occur. The courts have reinforced this interpretation of CEQA as being broadly protective of the environment. As early as 1972, and repeatedly in opinions issued by the California Courts of Appeal and the State Supreme Court, the courts have affirmed that 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."[2]

This broad, protective interpretation of CEQA is reflected in Guidelines §15063(b) which states than an EIR is required whenever

> "the agency determines that there is substantial evidence that any aspect of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial ..."

An EIR also must address a broad range of types of impacts. Guidelines §15064(d) establishes that under CEQA a significant impact on the environment can be a direct or indirect effect of a proposed project. Social and economic effects, while not considered significant impacts in and of themselves, must be carefully examined in order to understand if they connect a proposed project to a physical effect on the environment (see Guidelines §15064(e)).

At times there is some degree of uncertainty about the likelihood of a project to cause an environmental effect. The Guidelines addresses this condition in §15064(g), which states that

> "where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: *If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.*" [emphasis added]

Thus, the mere presence of uncertainty about a future effect does not immunize that effect from triggering the need for consideration in an EIR. Rather, uncertainty, where the possible outcomes are supported by evidence, is supposed to be fully explored in the EIR.

In order to implement CEQA so as to "afford the fullest protection of the environment," the appropriate scope of analysis in an EIR on the proposed incorporation of Olympic Valley must be viewed broadly and must consider the potential effects of incorporation in light of the reasonably foreseeable actions a city council would take after incorporation, particularly in light of the ongoing reasonably foreseeable changes in economic and environmental conditions in the region.

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[2] *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247, 259 [104 Cal.Rptr. 761, 502 P.2d 1049].)

Reasonably Foreseeable Conditions

In its landmark opinion in *Laurel Heights Improvement Association of San Francisco, Inc. v. The Regents of the University of California,* the California Supreme Court directed that a CEQA document must address the environmental effects of reasonably foreseeable characteristics of a project and cannot be limited to only those aspects of the project that are well-defined at the time that the CEQA document is prepared.

> "We hold that an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects."[3]

As described in the Notice of Preparation, the newly incorporated city would continue to provide services at the same or similar level as currently provided by the County, and largely by the same providers as currently under the County.[4] However, it is undeniable that the future elected decision makers in the incorporated Olympic Valley would not be bound by the intent of the incorporation proponents, but, rather, would be obligated to make decisions now and in the future for the good of the residents and businesses in the incorporated city based on conditions that exist at that time. As discussed below, numerous conditions can be expected to exist in the future that would result in decisions being made to encourage new development in the Valley, thereby increasing or making more reliable tax revenues to support the incorporated city.

Currently, services to Olympic Valley are provided by Placer County, which has a large and diverse tax base. As proposed the tax base for an incorporated Olympic Valley would be largely driven by transient occupancy and retail sales taxes that are generated by businesses in the Valley, and which are considerably driven by the ski industry. Factors that have, and could, affect the magnitude of future tax revenues include (1) the regional, state, and national economy, (2) the relative competitiveness of the Squaw Valley Ski Resort in the Tahoe regional ski market, and (3) the inherent volatility of revenue from an industry that depends largely on the overall health of the economy and on climatic conditions, particularly in light of the potential effect of continue to be affected by climate change.

Many scientists have studied the potential changes to the snowpack in the Sierra as a result of changes in climactic conditions. According to the California Climate Change Center (CCCC), a consortium of over 100 of California's most prominent climate scientists, future climatological models predict that "more precipitation will fall as rain instead of snow, and the snow that does fall will melt earlier, reducing the Sierra Nevada spring snowpack by as much as 70 to 90 percent."[5] The most recent assessment from the CCCC states that "[n]o consistent trend in the overall amount of precipitation has been detected, except that a larger proportion of total

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[3] *Laurel Heights Improvement Association of San Francisco, Inc. v. The Regents of the University of California* (1988) 47 Cal. 3d 376

[4] Incorporate Olympic Valley FAQ Version 4.1, http://www.incorporateov.org/faq-s, October 2013. IOV states that there would be no change in the agency responsible for the provision of the following services: Animal Control, Emergency Medical, Fire Protection, Libraries, Police Protection, Public Transit, Trash Collection and Disposal, Water and Sewer, and Welfare and Child Protective Services. The following services that are currently provided by Placer County would be provided by the city of Olympic Valley solely or jointly with Placer County: Flood Control, Land Use Planning and Regulation, Parks and Recreation, Snow Removal, Roads Maintenance and Public Works, Visitor Services.

[5] California Climate Change Center, *Our Changing Climate: Assessing the Risks to California*, CEC-500-2006-077, July 2006, page 6.

precipitation is falling as rain instead of snow."[6] According to the CCCC, "[e]arlier snowmelt, higher temperatures and longer dry periods over a longer fire season will directly increase wildfire risk."[7]

The expected changes to future climate conditions are expected to have similar effects on ski resorts and related businesses outside of California as well. According to Daniel Scott, director of the Interdisciplinary Center on Climate Change at the University of Waterloo in Ontario, more than half of the 103 ski resorts in the Northeast will not be able to maintain a 100-day season by 2039.[8]

Climate change is one of a number of exogenous factors that will affect future decision making by the elected decision makers of an incorporated Olympic Valley. California continues to have an economy and tax system that will lead to volatile changes in tax revenues. According to the California Legislative Analyst's Office, numerous factors indicate that "significant revenue volatility will continue to be a major characteristic of California's tax system, absent major policy changes to the tax system's structure." Further, the LAO states that "[e]ven with tax reforms, it is likely that California would continue to face significant volatility in the future." An example of this volatility is that in 1999-2000 the California General Fund revenues increased by as much as 20 percent, but then plunged by 17 percent in 2001-02.[9]

The vulnerability of the local economy has been noted previously. In a June 2007 study undertaken by the Placer County Redevelopment Agency, "[c]ommunities relying solely on one industry or employer are more vulnerable to economic shifts than those with a diverse economic base."[10] That study reported that the North Lake Tahoe Area, including Squaw Valley, with 37 percent of all earnings coming from the leisure industry, was economically less diverse than the following other ski-oriented communities: Mammoth Mountain, California; Vail, Colorado; Park City, Utah; Sun Valley, Idaho; and Aspen, Colorado.[11] According to the study, the lack of diversity of the economy makes the area, including the proposed incorporated City of Olympic Valley, particularly vulnerable to trends in tourism and travel. An incorporated city that would be completely dependent on one industry, and an industry that may be affected by predicted changed climate conditions, would have a revenue base that would be especially vulnerable and volatile.

Predictable factors such as changing economic business cycles or long-term climate change make it reasonably foreseeable that an incorporated city with revenues highly dependent on the just a few businesses tied to the ski industry will necessarily be required to undertake actions that would diversify the economic base of the incorporated city, and that such actions would invariably result in additional development and land use changes. Such changes can reasonably be predicted to potentially have numerous environmental effects.

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[6] California Climate Change Center, *Our Changing Climate 2012: Vulnerability & Adaptation to the Increasing Risks from Climate Change in California*, CEC-500-2012-007, July 2012, page 2.

[7] Ibid, page 3.

[8] Katharine Q. Seelye, *Rising Temperatures Threaten Fundamental Change for Ski Slopes*, The New York Times, December 12, 2012

[9] California Legislative Analyst's Office, *Revenue Volatility in California*, July 2005. http://www.lao.ca.gov/2005/rev_vol/rev_volatility_012005.htm

10 Placer County Redevelopment Agency, *Economic and Redevelopment Strategies for Kings Beach and Tahoe City*, prepared by Economic and Planning Systems, GDeS Architecture & Planning, Hansford Economic Consulting, and Denise Duffy & Associates, June 2007, page 24.

[11] Ibid, Table 6, page 24.

An EIR Must Consider Reasonably Foreseeable Environmental Impacts

As established above, the courts have declared that lead agencies, when complying with CEQA, must "afford the fullest protection of the environment" and if there is substantial evidence supporting a fair argument that a proposed action *may* have a substantial adverse effect on the environment, an EIR must be prepared. In order to meet these requirements, (1) an EIR must be prepared for the proposed incorporation of Olympic Valley, (2) it must be broadly scoped so as to address all reasonably foreseeable environmental consequences of the incorporation, and (3) it must account for actions that the incorporated jurisdiction may take in the future to ensure revenues that will support service delivery at levels comparable to that currently provided by the County.

Given the current and reasonably foreseeable future environment as one that continues to experience shorter warmer winters and reduced snowpack, and in light of the lack of diversification that will be present in the economy of the new incorporated city, it is reasonably foreseeable that a new incorporated City of Olympic Valley would need to diversify its income stream and tax base to ensure the continuation of services at existing levels. Consequently, some additional future development must be assumed and evaluated, at least programmatically, so that the decision makers at LAFCO are able to make an informed decision on the Project.

The CEQA process invariably includes some level of uncertainty because it involves predictions of the future. Under CEQA it is proper to avoid unsubstantiated speculation. In fact, Guidelines §15145 states that, "[i]f, *after a thorough investigation*, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact." (Guidelines, §15145 [emphasis added].) In this case however, uncertainty about future conditions does not rise to the level of speculation. The Supreme Court has stated that

> "The fact that precision may not be possible, however, does not mean that no analysis is required."[12]

And reinforced its point by restating Guidelines §15144 which directs that

> "While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can."

Numerous studies by noted experts, including professors from California's most esteemed universities, many cited and attached to this letter, agree on the facts that are described above: (1) the economy in the region is vulnerable because of its dependence on ski-related tourism, (2) California's system of revenue collection is volatile because of its reliance on sources that fluctuate from year to year, and (3) expected changes in climatic conditions are very likely to have material effects on the snowpack that drives so much of the local economy.

While there may be uncertainty surrounding the specific magnitude of these future changed conditions, it is not in any way speculative to conclude that these factors must be considered as potential economic and environmental drivers of actions of an incorporated city which could, in turn, have environmental consequences that rise to significant environmental impacts. Rather than turning away from uncertainty, here, the obligation of LAFCO is to first embark on "a thorough investigation" to use its best efforts to find out and disclose all that it reasonably can. (Guidelines, §15144.)

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[12] *Laurel Heights Improvement Association of San Francisco, Inc. v. The Regents of the University of California* (1988) 47 Cal. 3d 376

As an example, it would be speculative to attempt in an EIR to predict exactly what future land use decisions will be made by a future city council. However, it would be entirely reasonable and appropriate, and consistent with methodologies used in program-level EIRs throughout California, for the EIR to examine existing land use patterns, holding capacity, demographic projections, and the like, to develop a programmatic future growth scenario for the city based on the need to ensure its ability to continue generating revenue to provide services within the new incorporated city, and to do so while responding to changing conditions. In order to evaluate the effects of the future growth scenario, the EIR would appropriately establish existing physical conditions and then describe how those conditions could be expected to change generally with new development.

A comparable approach was undertaken by the Sacramento County LAFCO in the Rancho Cordova Incorporation Draft Environmental Impact Report. The method used for the basis of the land use analysis is described below:

> "... the environmental analysis assumes that the proposed incorporation would result in the urbanization of all developable areas in the project area, including land areas currently designated for rural and agricultural land uses. It is important to note that this assumed development pattern has been utilized to evaluate "worst-case" environmental effects of the project and that such development has not been proposed by the project applicants."[13]

This is an approach and methodology that is tried and true, one that has been tested and validated by the courts, one that has been used in other incorporation EIRs in the region, and one that should be implemented in the Olympic Valley Incorporation EIR.

Probable Environmental Effects that Must be Addressed in the EIR

As we discussed in an August 11, 2014 memorandum to LAFCO, there is a wide array of probable environmental effects that must be considered in the EIR on the Olympic Valley Incorporation Project. For each of the issues discussed below, the EIR must thoroughly describe the environmental setting, the existing condition which forms the baseline against which environmental impacts will be compared.[14] The analysis of each impact must discuss the direct and indirect effects of the proposed incorporation, and should present an assessment of Existing Plus Project conditions, which would constitute the Existing environment plus the future changed conditions within the proposed incorporated City of Olympic Valley. For each impact where under the Existing Plus Project conditions there is either an impact that is determined to be Less Than Significant, or Significant, the EIR must also evaluate the Cumulative impact, which would also take account of predicted future changes outside of the proposed incorporated City. Thus, in the Cumulative analysis, the EIR would account for the effects of the proposed incorporation of Olympic Valley in the context of changes to environmental conditions that are predicted due to growth and other changed conditions in Alpine Meadows, Tahoe City, Kings Beach, Truckee, and elsewhere in the region.[15]

First we discuss those issues that have been noted in the NOP to be included in the EIR.

Land Use and Planning

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[13] Sacramento County Local Agency Formation Commission, *Rancho Cordova Incorporation Draft Environmental Impact Report*, March 2001, page 4.2-24.

[14] State CEQA Guidelines, §15125(a).

[15] State CEQA Guidelines, §15130.

As describe in the NOP, the Land Use and Planning section, would focus on a comparison of the "proposed project's consistency with the surrounding area adopted plans, policies, and ordinances, including the 1983 Squaw Valley General Plan and Land Use Ordinance, Placer County LAFCO policies and standards, andany other appropriate documents," as well as consideration of potential land use incompatibilities. Important in this analysis is what type of changes are anticipated as a result of the proposed incorporation. In order to fully disclose the Land Use and Planning effects of the proposed project, the EIR must examine existing land use patterns, holding capacity, demographic projections, and develop one or more programmatic future growth scenarios based on the need to ensure its ability to continue generating revenue to provide services within the new incorporated city, and to do so while responding to changing conditions such as climate change and the need to diversify the city's economy. The land use plan and zoning reflected in the Squaw Valley General Plan and Land Use Ordinance (SVGPLUO) represents a starting point, but the EIR should appropriately account for proposed developments (including the proposed Village at Squaw Valley Specific Plan and PlumpJack redevelopment), and existing entitlements and use permits (including Resort at Squaw Creek Phase 2 and Olympic Estates), as well as future development that could occur on vacant and undeveloped parcels throughout the Valley.

As noted below under Recreation, the County has, for a number of years, worked to advance a proposed Truckee River Corridor Access Plan that will provide a continuous and coordinated system of preserved lands and habitat, with a connecting corridor of walking, in-line skating, equestrian, bicycle trails, and angling and boating access from Lake Tahoe to the Martis Valley. The proposed project intends to include in the future incorporated city of Olympic Valley approximately six linear miles of the Truckee River corridor. The EIR should address how the proposed incorporation could affect the implementation of the Access Plan, and concomitant effects on river access, mobility, automobile use, and other factors that are intended to be addressed by the Access Plan.

Public Services and Recreation

The EIR must address the potential changes in the provision of public services to the residents and businesses within the proposed incorporated city. As noted above, since an incorporated City of Olympic Valley would have a much smaller tax base, and one that would be much more vulnerable to year-to-year changes in levels of tourism and retail sales at businesses in the city, the EIR should address how the provision of public services could be affected by these volatile changes in year-to-year revenues.

Fire Hazards. Olympic Valley is located in a Very High Fire Hazard Severity Zone currently designated as a State Responsibility Area. In the event of incorporation, the area will become a Local Responsibility Area, where the newly incorporated city of Olympic Valley will be responsible for providing fire protection and prevention services. The EIR must address the potential effects of the change in responsibility for fire protection services in a very high fire hazard zone such as Olympic Valley. Further, as noted above, the California Climate Change Center's experts have concluded that expected climate change will increase the risk of wildfire (both frequency and intensity) in California. Thus, the EIR's assessment of wildfire effects should not only address how the new incorporated city would provide fire protection and prevention services under existing conditions, but also how such services will be provided in reasonably foreseeable future conditions where climate change creates the potential for even more hazardous wildfires in the Valley. For this latter condition, it will be necessary for the cumulative analysis to assess the potential effects of incorporation in the context of changed future land uses as well as changed future wildfire conditions and risks.

Recreation. Winter and summer recreation is an important element of life in the Valley and in the Truckee River corridor. The County is currently working on advancing the completion of the Truckee River Corridor Access

Plan, which will improve access along the Truckee River corridor, from Tahoe City to Truckee, including the portion of the corridor that would be included in the proposed incorporated City of Olympic Valley. The EIR should explore how incorporation of the proposed City of Olympic Valley would affect the implementation of the Draft Corridor Access Plan. In addition, the EIR must address the proposed incorporated City's ability to build and operate recreational resources at levels that meet state requirements, as well as the thresholds that would become part of the new incorporated city's general plan.

Parks. There is only one public park in Olympic Valley, Squaw Valley Park, currently owned by the County. The EIR should explore how the proposed incorporated City of Olympic Valley would plan and provide for public parks and recreation facilities. The analysis should consider whether the proposed city would adopt requirements comparable to those provided for in the Quimby Act, and, if so, what would be the effects of the proposed city's variable tax base be on the operations and maintenance of the parks and recreation facilities under its jurisdiction.

Utilities

The EIR's assessment of water impacts should draw on the projections of future land use scenarios for the Valley. Since it is currently unclear whether the proposed Village at Squaw Valley Specific Plan would be implemented in an incorporated City of Olympic Valley, the associated water supply infrastructure called for in the proposed Specific Plan, including new wells, should not be assumed in the assessment of the infrastructure that would be required to serve the incorporated city with adequate water in the future, and impacts on water supply and groundwater conditions that could result. Even if the SVPSD remains the water purveyor within the Valley, decisions regarding land use and development could affect the SVPSD's ability to adequately serve existing and future development. The EIR should include a discussion of the extent to which the proposal may result, directly or indirectly, in the wasteful, inefficient or unnecessary use of energy, as required in Appendix F of the State CEQA Guidelines, and recently reiterated by the Third District Court of Appeal in its recent decision in *California Clean Energy Committee v. City of Woodland.*

Climate Change

As presented above, there is an extensive body of science to establish that reasonably foreseeable future conditions will include changes to climatic conditions caused by human actions. The proposed incorporation of Olympic Valley has the potential to exacerbate climate change through increased emissions of greenhouse gases, and the environmental conditions that will exist in the reasonably foreseeable future, circumstances against which the environmental impacts of the project must be evaluated, will be affected by predicted changes to the climatic conditions in the region. It is very important that the assessment of climate change address both predicted changed conditions related to the hydrology and climate of the Valley, as well as the potential for land use changes that could increase greenhouse gas emissions.

It has been argued in other letters in response to this Notice of Preparation that changed climatic conditions, such as decreased snowpack and the concomitant effects on the economy and fiscal conditions of the proposed incorporated city, as well as the future environmental conditions in the Valley and region, represent effects of the environment upon the project. It has been further argued that such effects are outside the scope of analysis in CEQA pursuant to a decision by the California Second District Court of Appeal in *Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455, 473. The reasoning in that case has not been adopted or endorsed by the Third District Court of Appeal, the Court of Appeal that would hear any challenge to the present EIR, should one be filed. Further, this issue is currently under review by the California Supreme Court in the matter of *California Building Industry v. Bay Area Air Quality Management Dist.* [considering, under what

circumstances, if any, does CEQA require an analysis of how existing and reasonably foreseeable environmental conditions will impact future residents or users of a proposed project]. As such, we urge LAFCO to include the analysis in the EIR.

We are not suggesting that the EIR speculate about the effects of the environment on the project. Rather, LAFCO should consider the wealth of scientific information available demonstrating that future changes to climatic conditions will continue to occur within northern California, including warmer winters with less snowpack, and the corresponding changes in economic activity that are therefore also reasonably foreseeable, including fewer potential visitors; thus, representing the conditions against which the effects of the project should be evaluated. As such, it is not the effects of the environment on the project which must be evaluated, but rather (1) the project must be defined in light of the reasonably predictable future climatic conditions, and (2) the effects of the project must be evaluated against a baseline that reflects reasonably predictable and foreseeable future climatic conditions. Thus, the EIR must address climate change impacts, as noted below.

Changed Climate Conditions. In the coming decades, climate change will result in meteorological and hydrological changes that are predicted to result in substantive decreases in snowpack. These reasonably foreseeable conditions should be documented in the EIR, including potential changes to hydrology, surface and groundwater conditions, and economic conditions of the Valley. Clear documentation of these anticipated changes will be important to understand future cumulative conditions in the Valley, against which the potential effects of the proposed Incorporation Project must be considered.

Greenhouse Gas Emissions. The EIR must provide a comprehensive examination of how land use changes that could be affected by incorporation could contribute to increased greenhouse gas emissions. It should be noted that while most GHGs are generated by transportation sources, other sources of greenhouse gas emissions are the operation of water delivery systems, energy generation, and building operations. Each of these factors must be considered in the EIR. Because the State's goal is not to simply avoid increased GHGs, but to roll back emissions to 1990 levels by 2020, and further reductions by 2050, the EIR must include a GHG reduction plan, coordinated with the Placer County Air Pollution Control District and consistent with the PCAPCD CEQA Handbook Appendices F and G, that describes how the newly incorporated city would mitigate greenhouse gas emissions and contribute to the State's achievement of the goals of AB32.

In addition to the issues that are generally addressed in the NOP, it is important that the EIR also fully consider the following issues that will be affected by the proposed creation of a newly incorporated city in Olympic Valley.

Population, Employment and Housing

Based on the future growth scenarios developed for the Land Use analysis, the EIR must present how key socioeconomic characteristics of the incorporated City may change, in terms of total population, employment, housing characteristics, including affordability, and jobs/housing relationship. Because of its importance to such environmental issues as mode of transportation, air quality, greenhouse gas emissions, and energy demand, the assessment of jobs/housing should discuss housing affordability as it relates to the important relationship between estimated housing costs and employment income levels. Often housing affordability is considered to be purely a socioeconomic concern and not related to physical environmental effects. In the case of Olympic Valley, lack of housing affordable to seasonal and other low-wage workers has effects on transportation, and relatedly on air pollution emissions, greenhouse gas emissions, noise, safety, and other related environmental issues. Thus, a

thorough discussion of the effects of housing affordability and jobs/housing match is important to include in the EIR.

The Sacramento Area Council of Government's (SACOG's) Regional Housing Needs Plan 2013-2021 identifies a requirement for 3,044 very low, low, and moderate income housing units in unincorporated Placer County (not including the 214 such units required in the Tahoe Regional Planning Area of Placer County).[16] Since every incorporated city is designated in the plan for a Regional Housing Needs Allocation (RHNA), it is logical to conclude that a portion of this allocation will necessarily be required to be met in the proposed incorporated city of Olympic Valley. As part of this assessment, the EIR must identify the RHNA expected that would be required for a newly incorporated Olympic Valley, and the environmental consequences of providing such housing within the city.

Further, as proposed, the newly incorporated city of Olympic Valley would be subject to State Housing Law, including requirements to plan and provide for very low, low, and moderate income housing through a Housing Element (see California Government Code §65580-65584.07). In addition, the State Health and Safety Code (§50105-50106) requires that a subset of very low income households qualify as affordable to extremely low income households. State law also requires that incorporated jurisdictions demonstrate that existing or proposed permit processing, development, and management standards encourage and facilitate the development of emergency shelters. As a matter of law, the new incorporated city would be required to provide sites for these required housing allocations. Currently, the obligations to comply with State Housing Law are met by Placer County, and Placer County's Housing Element has been approved by the State Department of Housing and Community Development. The foreseeable environmental consequences of complying with State Housing Law, including provision of the newly incorporated city's obligations to provide affordable housing, include traffic, air pollution, loss of habitat, water demand, and the like. These effects must be disclosed in the EIR.

Transportation and Circulation

Future growth in the City of Olympic Valley would materially affect and be affected by changes in the regional transportation system. Based on the future land use growth scenarios, the EIR should assess how incorporation of the City of Olympic Valley could affect all modes of transportation in the Valley and in the Highway 89 corridor from Tahoe City to Truckee. The EIR should include an analysis that predicts how levels of investment in roadway infrastructure and transit service could vary under different future scenarios. The ability of a newly incorporated city to invest the fiscal resources in expansion of all aspects of the transportation system could have effects not only on such critical measures as the level of service on roads and at intersections in the vicinity, but also on vehicle miles travelled (VMT; a new measure that will soon be a requirement for all EIRs in California). As encouraged by the recent publication from the Governor's Office of Planning and Research, *Updating Transportation Impacts Analysis in the CEQA Guidelines: Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing SB 743*, vehicle miles travelled is a better and more important measure of the ways that transportation affects the environment. According to the publication,

> "Traffic studies used in CEQA documents have typically focused on one thing: the impact of projects on traffic flows. By focusing solely on delay, environmental studies typically required projects to build

[16] Sacramento Area Council of Governments, *Regional Housing Needs Plan 2013-2021*, Table 1, page 4, September 20, 2012.

bigger roads and intersections as "mitigation" for traffic impacts. That analysis tells only part of the story, however.

"Impacts on pedestrians, bicyclists and transit, for example, have not typically been considered. Projects to improve conditions for pedestrians, bicyclist and transit have, in fact, been discouraged because of impacts related to congestion. Requiring "mitigation" for such impacts in the CEQA process imposes increasing financial burdens, not just on project developers that may contribute capital costs for bigger roadways, but also on taxpayers that must pay for maintenance and upkeep of those larger roads. Ironically, even "congestion relief" projects (i.e., bigger roadways) may only help traffic flow in the short term. In the long term, they attract more and more drivers (i.e., induced demand), leading not only to increased air pollution and greenhouse gas emissions, but also to a return to congested conditions."[17]

VMT has clearly been recognized as the more environmentally protective measure of transportation system performance, and should be included in the EIR. However, the timing of the formal change to the Guidelines is currently unclear, and thus the EIR should include an assessment of both the traditional LOS measure of performance, and the new VMT measure of effect. The analysis of transportation effects under both of these measures should assess the effects of future growth scenarios and levels of investment in transportation system improvements in the incorporated city during the peak winter season as well as the peak summer season, and, under CEQA, must be assessed for Existing Plus Project and Cumulative scenarios.

While vehicle miles traveled may reflect regional concerns, and provide the framework for understanding how vehicular use may affect emissions of criteria pollutants and greenhouse gasses, transportation impacts are also felt on a local level. Thus, the effects of snow removal, a service that is proposed to be taken over by the new City of Olympic Valley, could have material effects on both roadway capacity and safety. Safety impacts, during all seasons, are impacts that must be considered in the EIR.

Air Quality

Because the proposed incorporation could affect growth and transportation in the Valley, it will be important that the EIR consider the correlative effects on air pollution. The EIR should estimate the amount of criteria pollutants, including small particulate matter (PM_{10} and $PM_{2.5}$), that would be emitted from traffic travelling to and from existing and future uses in the Valley. The analysis should be undertaken for Existing, Existing Plus Project, and Cumulative conditions. In the event that significant impacts are identified, mitigation measures should be described, including estimates of the emission reduction value of each measure, consistent with the recent Court of Appeals decision in *Sierra Club v. County of Fresno/Friant Ranch, L.P.*

Biological and Wetland Resources

There are numerous sensitive habitats in and around the Olympic Valley area, including conifer forest, Squaw Creek, riparian and meadow habitats. Jurisdictional wetlands are also present throughout the valley. Federally and State-listed species that could be present in the Valley include Sierra Nevada yellow-legged frog, bald eagle, willow flycatcher, yellow warbler, and Sierra Nevada snowshoe hare. Habitat for numerous plants that are listed by the California Native Plant Society also occurs. The EIR should consider the potential effects of the growth

[17] Governor's Office of Planning and Research, *Updating Transportation Impacts Analysis in the CEQA Guidelines: Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing SB 743*, August 6, 2014, page 5.

scenarios described in the Land Use chapter on wetlands and uplands, and other sensitive habitats, and protected and sensitive plant and animal species that live, or forage in the Valley.

Hydrology and Water Quality

Squaw Creek and its tributaries provide year-round and seasonal sources for water for wildlife and habitat for aquatic and semi-aquatic species. Flooding has been a historical problem in Olympic Valley, affecting the North and South forks of Squaw Creek, the Squaw Valley Ski Area and commercial property, including PlumpJack (Squaw Valley Inn) and Squaw Valley Lodge, and running the entire length of Olympic Valley to the Truckee River confluence. Due to excessive sediment load, Squaw Creek is listed by the Lahontan Regional Water Quality Control Board as an impaired water body in accordance with Clean Water Act Section 303(d). The Truckee River is also an impaired water body and is included on the same listing. The EIR should address how the proposed incorporation of the City of Olympic Valley could affect future flooding conditions throughout the Valley, and how the future land use scenarios would affect the ability to meet the established TMDL thresholds for Squaw Creek.

Visual Resources and Aesthetics

The natural aesthetics and visual quality of the Squaw Valley area are affected by the quality, height, amount, and design of the built environment. Under the future growth scenarios that are developed as part of the Land Use analysis, the EIR should describe how the visual quality and character of the Valley could change as the result of future growth. Important scenic view corridors should be identified, including views from the two miles of Squaw Valley Road, which is designated a scenic roadway by Placer County. The EIR should evaluate whether views from Squaw Valley Road and other key locations within the Valley could be substantially degraded by future growth, and discuss what mechanisms the new city might use to address impacts on views, including night-time views, and visual quality.

Cultural Resources

Previous studies have identified significant cultural resources within the proposed boundaries of the incorporated City of Olympic Valley, including extensive pre-historic resources dating back thousands of years. These resources could be at risk and adversely affected by future development that could be affected by incorporation. The potential for significant impacts due to incorporation should be fully explored in the EIR.

Growth Inducement

The Land Use and Planning, and Population, Employment and Housing discussions presented above outline issues related to growth and urbanization effects in the proposed incorporated city of Olympic Valley. The close relationship between residential and non-residential uses in the Valley and interdependent uses in nearby communities is well known and documented. Employees of Valley businesses frequently live in Truckee or other communities, and, reciprocally, residents of the Valley are forced to drive to those same nearby communities to shop, find services, and do business. CEQA also requires consideration of "the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment."[18] In order to meet this requirement, the EIR should address how the future land use scenarios could induce or redirect growth, including development of housing or community-serving commercial uses, in neighboring communities, including Truckee, Tahoe City, and Kings Beach. The

[18] State CEQA Guidelines, §15126.2(d).

EIR should assess the potential effects of the induced or redirected growth on the environment, in terms of traffic, air pollution, noise, and other related and predictable effects.

Alternatives

A central element of an EIR is the evaluation of alternatives that could achieve most of the basic objectives of the proposed project while avoiding one or more significant environmental impacts. For the EIR on the Olympic Valley Incorporation Project, the evaluation will necessarily require a thoughtful exploration of how the CEQA-required No Project Alternative differs from the land use scenarios that could occur under the proposed incorporation. The No Project Alternative should assume continued provision of services by Placer County, and should reflect the County's ability to provide services in light of its much more diverse tax base.

In addition, correspondence from the project proponent indicates that the boundaries of the incorporation could be altered based on the desire of some individual property owners. These alternative boundaries should be evaluated and the relative environmental consequences of different boundary configurations for the incorporated jurisdiction should be compared. Importantly, if significant environmental effects are identified, alternative configurations for the proposed incorporation should be evaluated, including (1) expanded boundaries that would enlarge and diversify the tax base for the proposed incorporated city, and (2) different delivery systems for environmentally important public services and infrastructure. At a minimum, an alternative should be included that excludes the Squaw Valley Ski Resort from the proposed incorporated city. Such an alternative will likely respond to potential issues associated with changes to fire hazard responsibility areas. By excluding the extensive mountain acreage of the Ski Resort from the proposed city, the Ski Resort property would remain within a State Responsibility Area, where the State would remain financially responsible for fire protection and prevention.

While we understand the rationale behind the proposal to make the city boundaries coterminous with Squaw Valley Public Services District (SVPSD) boundaries, the result is that the proposed city would include approximately six miles of the Truckee River corridor. The corridor includes State Route 89, the Truckee River, and a number of riverside rural homes. The inclusion of this area in the incorporated city could interfere with future improvements of SR 89, and completion of the Truckee River trail and other aspects of the County's proposed Access Plan. We suggest that the EIR also include consideration of an alternative that terminates the boundaries of the incorporated city at the west end of the intersection of SR 89 and Squaw Valley Road.

Other Issues

The discussion above does not constitute a complete and comprehensive list of issues that should appropriately be considered in an adequate EIR. Rather, it simply points out some of the most prominent issues of concern that should necessarily be addressed in the incorporation EIR. Others that could be affected by future changed conditions in an incorporated Olympic Valley would include such considerations as traffic and construction noise, wastewater conveyance and treatment, the provision of public schools (including the traffic and related effects of transport of school children to out-of-valley schools), and the like.

Kris Berry

From: Evan Smith <h2obuffalo@me.com>
Sent: Monday, November 24, 2014 6:34 PM
To: Kris Berry
Subject: EIR for incorporation of Squaw Valley

Follow Up Flag: FollowUp
Flag Status: Flagged

Hello Ms. Berry

I would like to comment on the EIR being required for the incorporation effort. After reading available materials on the Internet, it seems ridiculous to require an EIR for incorporation of Squaw Valley. HOWEVER, it seems completely necessary for KSL and Squaw Valley Ski Holdings (and perhaps Plumpjack and other large landowners with plans to build) to do one regarding their future plans for construction in Squaw Valley.

Thank you so much,
Evan Smith

Kris Berry

From: Evan Smith <h2obuffalo@me.com>
Sent: Monday, November 24, 2014 6:56 PM
To: Kris Berry
Subject: Squaw Valley incorporation EIR

Dear Ms. Berry,

I forgot to mention that I'm a resident of the valley, I live at 420 Squaw Peak Road, apartment 31. Also, perhaps an EIR is planned for KSL/SVSH construction plans, if so then please disregard my input regarding requiring one of them.

Thanks again! Have a great Thanksgiving!
Evan Smith

E Mulberg & Associates

Local Agency Specialists
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Elliot@emulberg.com

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November 25, 2014

Ms. Kris Berry, Executive Officer
Placer County LAFCO
110 Maple St.
Auburn, CA 95603

Subject: Comments on Incorporate Olympic Valley Notice of Preparation

Dear Ms. Berry:

As a consultant to Incorporate OV Foundation I want to thank you for giving us the opportunity to comment on the Notice of Preparation (NOP). As you know communities want to become cities for a number of reasons including maintaining community identity, local control over land use decisions, and local control over the level of services they receive from local agencies. As noted in the application the proponents of the Town of Olympic Valley want to incorporate for greater self-determination, better utilization of locally generated revenues, and improved public services, especially road maintenance and snow removal.

Environmental review relies on evaluating changes to the baseline due to the proposal. In this case the proposal is for the formation of a new government entity responsible for providing municipal services. Therefore the baseline is the level of services currently provided by the County and special districts. The environmental review should focus on how the new entity would change existing municipal services. In other words the EIR does not have to be all-inclusive, but should only analyze the potential environmental impact of the incorporation. The incorporation will not change the provider nor the level of wildland fire, water, sewer and fire/ emergency services. Most services are anticipated to remain unchanged. The change in services are those outlined in the application that will be improved.

The EIR should only analyze environmental impacts not fiscal impacts. The financial viability of the town will be addressed in the Comprehensive Fiscal Analysis (CFA), a separate document from the EIR. Alternative boundaries which the CFA determines are not fiscally viable should not be considered in the EIR.

We are encouraged and we advocate that that an Initial Study will be conducted. An Initial Study may rely upon expert opinion supported by facts, technical studies or other substantial evidence to document its findings. The difficulty is that there are many unknowns in the

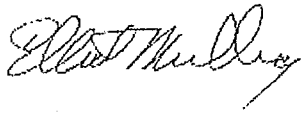
analysis, including who might be on the Town Council and how they may react to changes in the economy. The EIR should not analyze impacts from future decisions which may be made by the Town Council. This includes the adoption of a General Plan and zoning ordinance by the Town Council after incorporation.

One can speculate on any number of possible scenarios. As you know CEQA does not consider speculation as substantial evidence (CEQA guidelines 15064 (f)(5)). Furthermore the CEQA guidelines clearly state that "Evidence of economic and social impacts that do not contribute to or not caused by physical changes in the environment is not substantial evidence that the project may have a significant effect on the environment" (CEQA Guidelines 15064 (f) (6)). For example, the EIR should not analyze development that might occur in response to theoretical challenges to the area posed by climate change. First of all the effects of climate change cannot be predicted with reasonable certainty. Second, this analysis is inappropriate because it would speculate on the economic effects and the Town's response. The EIR must be limited to reasonably foreseeable environmental impacts. Any impacts which are purely speculative should not be analyzed. Similarly, the EIR's Alternatives analysis must be limited to a reasonable range of feasible alternatives.

In fact in *Laurel Heights Improvement Association v Regents of the University of California* (1988) 47 Cal. 3d 376, the court noted that where future development is unspecified and uncertain, no purpose can be served by requiring an EIR to engage in sheer speculation as to future environmental consequences. The new town will have to complete a new General Plan with its own EIR. That EIR will have specific data to use in its analysis.

With that understanding the goal of the Initial Study is to narrow the scope of the EIR. Its purpose is to identify the effects determined not to be significant and focus the EIR to address effects determined to be significant (15063). It is even possible that the Initial Study will determine there are no significant impacts and a negative declaration is appropriate. Never the less we encourage you to narrow the scope to the reasonably foreseeable potentially significant environmental impacts from the improved services that the applicants intend will be provided by the new town, as specified in the incorporation application. Any analysis that requires predicting the outcome of decisions by the newly elected Town Council after incorporation is entirely speculative and thus inappropriate for the EIR.

Thank you for your kind consideration.



Elliot Mulberg

140830.1

To: Kristina Berry, Placer County LAFCO 26 Nov. 2014

From: Jon D Shanser MD, resident at 1580 Lanny Lane, Olympic Valley, CA

Re: Response to NOP for EIR for Incorporate Olympic Valley

I am writing this letter as part of the public comment period for the EIR being requested for the Incorporate Olympic Valley(IOV) proposal.

While I do not believe that an EIR is at all necessary for the IOV application, essentially because the proposal does NOT involve any development, excavation, nor building any structure(s), there are several other points which I'd suggest should call for a reduced scope of an EIR, if one is actually mandated by LAFCO.

First, an EIR should ONLY analyze significant reasonably foreseeable environmental impacts as they relate to incorporation, and none that are **speculative** nor related to possible future decisions made by a Town Council.

The EIR should not include financial viability concerns since they will be covered completely by the CFA. And, the EIR should not assess the town's ability to provide services since that too will be covered by the CFA.

The EIR should not have to analyze speculative effects of climate change on the economy of the ski resort since one cannot predict those effects with any reasonable certainty. And, non ski resort tourism also drives the economy here in the other non-winter seasons which are less adversely affected by climate change.

Since Cal Fire will still be the contracted provider for wildland fire protection services, AND since the SVFD will still be the provider of residential fire protection services, there is simply NO evidence of significant adverse environmental impact related to fire protection. **Nothing** will change with respect to fire protection.

In conclusion, I sincerely believe that if an EIR is required by LAFCO, it should be significantly reduced in scope because there is no **factual** evidence of reduction in wildland fire response due to incorporation, nor **factual** evidence of reduction in TOT revenue that would reduce TART services. These claims by SVSH's attorneys are pure speculation and opinion and not based on fact. The **fact** is that according to the 2008 decision by the Monterey County Superior Court, an EIR is NOT required when forming a city because forming a city alone is NOT a project under CEQA, and in this case no earth will be moved as a result of the incorporation process.

Thank you for your consideration of these comments.

Jon D Shanser MD

11364 Pleasant Valley Road
Penn Valley, CA 95946
Voice (530) 432-7357
Fax (530) 432-7356

COLANTUONO
HIGHSMITH
WHATLEY, PC

Matthew T. Summers
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Our File No. 45009.0001

November 26, 2014

RECEIVED
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VIA E-MAIL AND U.S. MAIL

Kristina Berry, Executive Officer
Placer County LAFCO
110 Maple Street
Auburn, CA 95603

Re: **Notice of Preparation of an Environmental Impact Report for Olympic Valley Incorporation Proposal (LAFCO No. 2013-02)**

Dear Ms. Berry:

I write on behalf of Incorporate OV Foundation regarding the Notice of Preparation of an Environmental Impact Report ("EIR") for the proposed incorporation of a new town of Olympic Valley. This letter supplements the previous comments stated in the letter from Michael Colantuono to you, dated November 18, 2014, by responding to several points raised at the scoping meeting on the EIR held on November 18, 2014.

We request that LAFCO complete an Initial Study, rather than proceeding directly to completing the EIR. We expect that the Initial Study will narrow the issues to be considered in the EIR by excluding environmental factors that cannot be affected by this project. As you know, the project is an incorporation and does not involve any changes in the physical environment.

An EIR should only analyze the potential environmental impacts of the project. Since this project is an incorporation, it fundamentally only consists of a change in the community's decision-makers. The project will not result in any reasonably foreseeable changes in land use policies at all. Instead, the new town's newly-elected council will be required, upon incorporation, to adopt the existing county General Plan designations and zoning ordinance. (Gov't Code § 57376.) This act is ministerial and thus exempt from CEQA. (Pub. Res. Code, § 21080, subd. (b)(1).) Therefore, the EIR for the incorporation should also not consider any potential environmental impacts from the

adoption by the new town's Town Council of the existing county General Plan designations and zoning ordinance. After incorporation, the new town will be required to develop and adopt, after completing an EIR considering the proposed General Plan and zoning ordinance, a General Plan and zoning ordinance within 30 months. (Gov't Code, § 65360.) Given these facts, the project will not result in any changes to land use policies, and thus cannot cause environmental impacts from new development under modified land use policies that warrant analysis in an EIR. (See *Friends of Sierra Railroad v. Tuolumne Park and Recreation District* (2007) 147 Cal.App.4th 643, 655–656 ["CEQA review is premature if the agency action in question occurs too early in the planning process to allow meaningful analysis of potential impacts."].) The EIR's land use chapter does not need to evaluate any impacts from potential development, since the incorporation does not change what development is permissible in the area.

If, however, LAFCO is inclined to evaluate any environmental impacts resulting from potential development, then that analysis should only consider development that could be approved by the new town under the existing county's general plan and zoning ordinance, during the interim period between incorporation and the new town's adoption of its own General Plan and zoning ordinance. This analysis should be focused on the environmental impacts of increased service provision by the new town, as proposed in the incorporation application, particularly increased road maintenance and snow removal. Because the incorporation will not change land use policies, but is expected to result in some increased services, the EIR could evaluate the potential impacts from the town's provision of those increased services to the potential development allowable under the county's existing zoning and which is reasonably foreseeable for the interim period before the town's adoption of its own General Plan. At the very most, the EIR could only reasonably analyze the impacts from increased services provision to the development permissible under the county's existing land use policies at full build-out. However, analysis of the impacts of increased services provision to the development possible with full build-out under the county's existing land use policies is likely a needless exercise, since full build-out is unlikely to occur during the 30 months, or less, of time from incorporation to the adoption of a new General Plan and zoning ordinance. Any analysis of potential impacts from other levels of development, such as might be authorized by the new Town Council in the General Plan and zoning ordinance it will eventually adopt, is entirely speculative.

At the scoping meeting on the EIR, an argument was made that the project may result in potential environmental impacts due to the shift in responsibility from the county to the new town to provide for a share of the regional housing needs allocation in the new town's Housing Element under Government Code section 65580, et seq. This argument is misguided.

First, upon incorporation, nothing will change, as the new town will be required to adopt the existing county zoning for the incorporated area, including any zoning designed to accommodate affordable housing. Second, while it is true that the new town will be responsible for accommodating a portion of the region's housing needs in its new Housing Element, the potential impacts of this requirement cannot be analyzed at this time with any certainty. The new town has 30 months after incorporation to develop and adopt a Housing Element. (Gov't Code, § 65584.07, subd. (b)(3).) During this period, the new town and the county are required to negotiate an amount of the county's regional housing needs allocation to be transferred to the new town. (Gov't Code, § 65584.07, subd. (c)(1).) If they cannot come to an agreement, then either party may submit a request to the Sacramento Area Council of Governments to determine the number of units, by the various income categories, which the new town will be required to accommodate. (*Ibid.*)

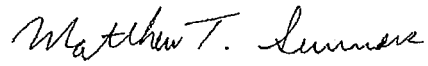
Only after that process is complete will we know how many housing units, and at what income levels, the new town will have to accommodate in its housing element. Without this information, LAFCO cannot analyze the potential environmental impacts from accommodating the new town's share of the regional housing needs allocation. At this stage, any such analysis is entirely speculative. Moreover, the new town will have to complete an EIR before adopting its new General Plan, including the Housing Element that must accommodate its share of the regional housing needs allocation.

With regard to the new town's provision of services, the argument that the town may not be able to fund the services as proposed because the county allegedly may be allocated most of the property tax income under the revenue neutrality agreement that has yet-to-be negotiated is misplaced. The EIR must evaluate the potentially significant environmental impacts from incorporation, if any. It must not evaluate the fiscal aspects of the incorporation, including whether or not the town will be financially viable. That analysis will be completed instead as part of the Comprehensive Fiscal Analysis.

As LAFCO evaluates the scope of the EIR, it should keep in mind that by narrowing the scope of the EIR to analyze only those environmental factors that have actual potentially significant environmental impacts, it is not curtailing environmental review to save money, as was argued at the hearing. Instead, by narrowing the EIR to its appropriate scope and avoiding analyzing unnecessary factors, LAFCO saves significant amounts of the taxpayer's time and money. Our proposal is not to cut corners, but instead is to avoid wasted resources.

Thank you for your consideration. If we can provide further information to assist your efforts in completing an Initial Study and the EIR, please let me know. Incorporate OV Foundation looks forward to continued collaboration with LAFCO, the County, the community, and other stakeholders as its proposal moves forward.

Sincerely,



Matthew T. Summers
Assistant General Counsel
Incorporate OV Foundation

MTS:mts

cc: Dr. Fred Ilfeld, Chair and Members of the Incorporate OV Foundation Board
Bill Wright, LAFCO General Counsel

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Kristina Berry, AICP
Executive Officer
Placer County LAFCO
110 Maple Street
Auburn, CA 95603

(sent by email and by regular mail)

November 26, 2014

Re: Comments on the NOP for proposed Town of Olympic Valley incorporation

Dear Ms. Berry:

As proponents of the incorporation of Olympic Valley as a town, we would advocate limiting the focus and scope of the Environmental Impact Report. Accordingly we strongly request that an "Initial Study" be undertaken by LAFCO's environmental consultant to focus the EIR on the pertinent possible environmental changes caused by incorporation.

The EIR should not review all aspects of incorporation that LAFCO will be considering in its broad review. For example, the financial viability of the town will be covered in the Comprehensive Fiscal Analysis (CFA). The CFA is a separate document being addressed by an independent financial services firm, and it should not be rolled into the EIR.

"The purpose of an EIR is to identify the significant effects on the environment of a project" *(Public Resources code section 21002.1)*. This project is an incorporation, fundamentally consisting only of a change in the community's decision-makers from the county to the town, not a change in physical environment. Not a spade of dirt will be turned. Nor will the project result in any reasonably foreseeable changes in land use policies at all. Upon incorporation the town's newly elected council will be required to adopt the existing Placer county General Plan designations and zoning ordinance. After incorporation, the new town will be required to prepare its own draft General Plan and zoning ordinance, then develop and certify an EIR for this new General Plan and zoning ordinance, and finally approve the new General Plan and ordinance. Given these facts, the incorporation project will not result in any changes to land use policies, and thus cannot cause environmental impacts from new development under modified land use policies that warrant analysis in an EIR. The EIR's land use chapter does not need to evaluate any impacts from potential development, since the incorporation does not change what development is permissible in the area.

Regarding public services, the EIR should not analyze whether the town will financially be able to provide services at the desired levels. Such financial analysis will be addressed in the CFA. The EIR can however analyze the environmental impacts, if any, from the expected increased services as proposed in the incorporation application, such as improved snow removal and road maintenance.

Global climate change and altered business cycles are not being caused by the proposed incorporation of Olympic Valley. Climate change and any resulting business impact will occur whether there is incorporation or not. An EIR should look only at the possible consequences of incorporation itself, and climate change is not one of them. Furthermore the EIR should not analyze potential challenges to the ski-resort economy posed by global climate change. Such an analysis speculates on the economic effect of climate change, on whether advancing ski industry technologies will have adequate snowmaking capacity, and on an unknown Town Council's response to these effects. None of these things can be predicted with reasonable certainty, and as such remain conjecture.

For an EIR to hypothesize about future decisions by a to-be-elected Town Council would also be speculative. Moreover, such logic posits that an EIR should be required of every election since this involves a change in decision-makers and possibly policy; this makes no practical sense.

Incorporation opponents claim that our community is a single industry town, dependent solely on the ski-resort economy. In fact the largest month of occupancy in the Village at Squaw Valley is July. It is no secret to northern California residents that the Lake Tahoe region, nestled in the Sierra Nevada mountains, is a prime recreational area during the summer, utilized as much or more so than the winter. Summer outdoor activities have been and will continue to be a huge contributor to our economy.

Another argument by opponents is that the new town will lack sufficient revenue to protect the valley from wildfires. As far as sufficient revenue, that is to be reviewed by the Comprehensive Fiscal Analysis. Moreover, the incorporation will not change the provider of wild-land fire protection services. Currently Cal-Fire protects the undeveloped portions of the Valley. The responsibility for this area shifts to the Town with incorporation, but the town will continue to maintain this as a Cal-Fire service by contract. Note that Cal-Fire provides the same attention to detail and response to fire protection, regardless of the governance. Thus there are no potential environmental impacts anticipated related to fire protection.

As for analyzing one or several Alternative Boundaries, the EIR must be limited to a reasonable range of feasible alternatives, both financially and politically. Alternative boundaries shown by the CFA not to be fiscally viable (which therefore cannot be approved by LAFCO) should not be analyzed in the EIR. Moreover, it would be inadvisable to include additional areas in the EIR that 1) geographically were not part of the initial incorporation petition and 2) have been historically independent from Squaw Valley and shown through recent survey and citizen comment to prefer separate status. Specifically we are referring to Alpine Meadows, the valley adjacent to and immediately south of the proposed town's boundaries.

In closing, we appreciate the opportunity to comment on the scope of this EIR. As residents of Olympic Valley we value the natural environs with which we have been blessed, and we support and applaud all efforts to preserve and enhance its outstanding beauty and natural resources.

Yours truly,

Dr. Fred Ilfeld

Dr. Fred Ilfeld
Board Chair, Incorporate OV Foundation,
Board member-at-large, Incorporate OV
218 Hidden Lake Loop
Olympic Valley, CA 96146-2160

Lisa Cardin
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198 Tiger Tail
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Olympic Valley, CA 96146-2151

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Lizzie Day
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1700 Navajo Court
Olympic Valley, CA 96146-2151

Jamie Schectman
Board member-at-large, Incorporate OV

ENVIRONMENTAL IMPACT REPORT (EIR) SCOPING MEETING
COMMENT FORM

To be added/corrected on our mailing list and to document the author of comments received, please provide the following information. Thank you.

Name: Bill Downs

Address: 1261 Sandy Way, Olympic Valley, CA 96146

Organization: Self

Please provide us with your written comments on the EIR by **5:00 pm, November 26, 2014.**

I just received an email from Incorporate Olympic Valley (IOV) asking that I write this comment letter to LAFCO and ask for a reduced scope EIR to save money. After carefully reading IOV's arguments, I am now more convinced than ever that a full EIR is required. This very small group of people wants to take environmental control of over 15 square miles of our beautiful valley. Now is the time to spend the money on the report, not after the CFA is completed or after a new town council is elected or after the items deemed "speculative" come true or after there is a law suit. By then, it will be the property tax payers in Olympic Valley doing future EIR's or paying for unplanned environmental or legal disasters.

Send comments to:

Kristina Berry
Executive Officer
Placer County LAFCO
110 Maple Street
Auburn, CA 95603
kberry@placer.ca.gov

ENVIRONMENTAL IMPACT REPORT (EIR) SCOPING MEETING

COMMENT FORM

To be added/corrected on our mailing list and to document the author of comments received, please provide the following information. Thank you.

Name: Les Wilson

Address: 570 Woodmont Avenue Berkeley CA 94708

Organization: Retired

Please provide us with your written comments on the EIR by **5:00 pm, November 26, 2014.**

No EIR should be required for incorporation - No ground is broken The EIR process should occur when specific construction is proposed

RECEIVED
NOV 26 2014
LAFCO

Send comments to:

Kristina Berry
Executive Officer
Placer County LAFCO
110 Maple Street
Auburn, CA 95603
kberry@placer.ca.gov

RECEIVED
NOV 26 2014
LAFCO

Comments on IOV/LAFCO/dEIR Scoping Meeting held on November 18, 2014 at 1700 in the Squaw Valley Public Service District Meeting room
by
David A. Brew Ph.D, part-time Squaw Valley resident

These comments are not directed at the proposed incorporation of Squaw Valley, which was the purpose of the meeting; they are instead directed at the misapplication of the California Environmental Quality Act (CEQA) in this specific LAFCO procedure.

All of the comments made in the meeting, and those submitted in writing, should be discarded as non-pertinent to the process. LAFCO should rescind their decision to require an EIR (and admoniish their consultant for suggesting that they do so).

The meeting predictably never achieved a focus on the CEQA requirement for analysis of the effects of the project on the environment. That, the effects of a proposed project on its environment, is the essence of environmental impact analysis. The main reason for not achieving focus is that the CEQA process is not designed for essentially administrative procedures.

And why is this an essentially administrative procedure?

The project is well defined, it is a proposed change in governance of a delineated area, with its residents, businesses, and infrastructure, from Placer County to a newly created town that would likely be called either the Town of Squaw Valley (TOSV). or the Town of Olympic Valley (TOOV). This administrative change in governance would not have a physical effect on the natural environment.

The main change in governance is that which involves governmental functions; it consists, first, of Placer County, which would retain some current functions, transfer some functions to the new town, and contract with the new town for some functions. And also to a lesser extent entities such as the Squaw Valley Public Service District, the Tahoe Public Utilities District, the North Tahoe Resort Association, with which Placer County has some relations. The natural environment would not be affected.

All of these administrative changes are predictable and can be specified and quantified, at least with limits, even though they are not on the natural environment.

Brew, D.A., (ed.), 1972, Final environmental impact statement, proposed trans-Alaska pipeline: U.S. Dept. of the Interior, Washington, D.C., 2,912 pages; Report in 6 volumes: 1 - Introduction and Summary, 2 - Environmental setting of the proposed trans-Alaska pipeline, 3- Environmental setting between Port Valdez, Alaska, and west coast ports, 4 - Evaluation of environmental impact, 5 - Alternatives to the proposed action, 6 - Consultation and coordination with others, discussion of points raised during review and public hearing process, and attachments. (Catalog No. PB-206, 921-SET, NTIS, U.S. Dept. Commerce, Springfield, Va. 22151).

Brew, D.A., and Gryc, G., 1973, The analysis of impact of oil and gas pipeline systems on the Alaskan Arctic environment: Proc. 5th Inter. Congr. Foundation, Francaise d'Etudes Nord. "Arctic oil and gas: problems and possibilities", Le Havre, France. 9 p.

Brew, D.A., 1974, Environmental impact analysis; the example of the proposed trans-Alaska pipeline: U.S. Geological Survey Circular 695, 16 p.

Brew, D.A., 1975, Environmental impact analysis; the example of the proposed trans-Alaska pipeline, *in* McKenzie, G.D., and Utgard, R.O., eds., Man and his physical environment: Burgess Pub. Co., Minneapolis, p. 287-301. (Reprint of U.S. Geological Survey Circular 695.)

Brew, D.A., 1976, Environmental impact analysis: the example of the proposed Alaskan pipeline, *in* Tank, R.W., ed., Focus on environmental geology, 2nd ed.: Oxford University Press, New York and London, p. 378-400. (Reprint of U.S. Geological Survey Circular 695.)

SQUAW VALLEY
PUBLIC SERVICE DISTRICT

SQUAW VALLEY FIRE DEPARTMENT

November 26, 2014

Kristina Berry, AICP
Executive Officer
Placer County Local Area Formation Commission
110 Maple Street
Auburn, CA 95603

RE: Incorporation of Olympic Valley – Notice of Preparation of a Draft Environmental Impact Report – Response Comments

Dear Ms. Berry:

We received the Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the Town of Olympic Valley Incorporation Project (Project) and appreciate the opportunity to provide this response.

The District understands that the purpose of its response to the NOP is to provide "guidance . . . as to the scope and content of the environmental information to be included in the EIR" and that we "should comment on the scope and content of the environmental information that is appropriate to the District's statutory responsibilities in connection with the proposed project".

In consideration of this purpose, District staff reviewed a blank 12-page *Environmental Checklist Form* provided by California's Office of Planning and Research (OPR) to encourage thoughtful assessment of environmental impacts.

The District reviewed environmental factors relevant to the District's service responsibilities and could not identify any potential environmental impacts from the proposed Project.

However, the District would like to clarify some of the wording in the NOP:

1. The section titled, "*Proposed Plan of Services*" on page 4 correctly states that, "The SVPSD provides water, sewer, and trash services, as well as fire protection and emergency medical services." However, on page 5, in the same section, it incompletely states, "Upon incorporation, the application indicates that SVPSD would continue to provide water, sewer, and solid waste services to the incorporated community." It omits that the District would continue to provide fire protection and emergency medical services.

2. The section titled, *"Public Services"* on page 6 says, "Potential new demand for services, including fire protection, police protection, schools, parks, and recreation, as well as the Town of Olympic Valley's ability to provide adequate services to meet demands, will be addressed." Although the next sentence appropriately discusses CALFire's areas of responsibility *only*, the reader *could* be incorrectly led to believe it's the SV PSD's Fire Department's jurisdiction that will be reviewed in the EIR (which will not).

Although the District does not believe the omissions are intended to portray that the new town will provide fire protection and EMS for developed private land, we wanted to clarify this verbiage in this response.

The proposed incorporation does not propose to transfer responsibilities of providing any of the services the Squaw Valley Public Service District (District) currently provides to the proposed Town of Olympic Valley.

The District understands and assumes that its current allocation of property tax revenue will not be affected by the incorporation of Olympic Valley.

Finally, as LAFCO is aware, there are four separate entities responsible for the supply, treatment, and distribution of potable water within the proposed town boundaries (e.g., Squaw Valley Public Service District, Squaw Valley Mutual Water Company, Squaw Valley Resort, and the Tahoe City Public Utility District) and wastewater collected in the District's sewage collection system is treated at Tahoe-Truckee Sanitation Agency (T-TSA) in Truckee.

Sincerely,

Mike Geary, PE
General Manager

mg/

Kris Berry

From: Eric Poulsen <epsquaw@yahoo.com>
Sent: Wednesday, November 26, 2014 3:09 PM
To: Kris Berry
Cc: William L Nagle; Brad Lyle
Subject: Incorporation of Olympic Valley scoping comments for Prospective EIR process

Dear Kristina -

I understand that you are looking for input for your scoping meeting in regard to the EIR for the Prospective Incorporation of Olympic Valley. I do have some input and, or questions which may be appropriately answered through an EIR process. Below, please find some of my questions regarding scoping for the EIR process?

ANOTHER LAYER OF GOVERNMENT - A new city or town will require a new layer, or, duplication of government and services that are currently provided to Olympic Valley by Placer County. This new layer of government will most likely duplicate and increase costs with new town council, mayor, public works, sheriff, judicial, animal control, etc. What will the impacts be?

- SMALL NUMBER OF VOTERS and LARGE NUMBER OF PROPERTY OWNERS - The Olympic Valley community has a small number of voters (under 600) and these voters will be making the big decisions. We also have a large group of property owners (over 5,000) who pay the taxes and many other expenses and the majority of these property owners are not a part of our local voting process. As such, a good percentage of our voters are not property owners and they might not have the same goals as property owners who have a large investment in our community. What will be the impacts of city hood on these owners who are invested in our community.?

-SMALL COMMUNITY - MORE RISK - I have heard the saying "There is safety in numbers". Currently, we have safety in numbers. Currently our liabilities and risks are spread over the entire county. If and when there is incorporation our numbers shrink substantially and there will be greater risk. We have recently seen this with the incorporation of Mammoth Lakes. It took one lawsuit to put the city of Mammoth Lakes into bankruptcy. There are big impacts to a small community with limited resources. What are the impacts and how does a small community plan for and avoid these impacts (especially to property owners who pay the taxes and are not a part of the Olympic Valley voting process)

- INFRASTRUCTURE - a new layer of government will require new infrastructure for offices, meeting rooms, new equipment and city trucks and city vehicles, maintenance yards,etc., etc. How much new infrastructure will be necessary, how much of it will be a duplicate of current service providers and what will be the impacts? Who will maintain the roads and provide snow removal, do building inspections and provide building inspections? Where will all of this be located in this small community? If it goes elsewhere, how much extra will it cost to contract with somebody else and what will the impacts be?

- OTHER ESSENTIAL SERVICES - there are many other services that are a part of a city including, but not limited to, Health and Human services, legal, Assessor and taxing, Animal control, Sheriffs Office, Probation, Judicial services, safety, mosquito abatement, etc. etc. These are services that we now receive. Will the community still have these services and what will be the costs and impacts? Will it be necessary to develop new facilities in our community to house these facilities and how will it be done and at what impacts?

- T.O.T. Taxes - Transient Occupancy Tax is a 10% tax on the lodging industry that is intended to be used for tourism based projects in Placer County. 8% of the tax and is raised county wide and 2% is raised solely from the eastern slope areas. There is an application and approval process to receive funds. Incorporate Olympic Valley members have stated that they are going to get the TOT tax. I don't know how IOV will get this tax. If IOV has success in getting these tax

funds, what impacts will it have on tourist related projects that prospectively might benefit from tax proceeds and what impact will present projects that benefit from this tax have (bike trail snow removal, visitor center, etc.)?? It is my understanding that these funds are not meant for city/town infrastructure.

These are some of my questions regarding incorporation. I don't know which items are relevant for consideration in an EIR process. Thank you for taking time to consider these questions.

Eric Poulsen
P.O. Box 2491
Olympic Valley, Calif. 96146

Epsquaw@yahoo.com

Sent from my iPad

COUNTY OF PLACER

BOARD MEMBERS

JACK DURAN
District 1

JIM HOLMES
District 3

ROBERT M. WEYGANDT
District 2

KIRK UHLER
District 4

JENNIFER MONTGOMERY
District 5

OFFICE OF
COUNTY EXECUTIVE
David Boesch, County Executive Officer

175 FULWEILER AVENUE / AUBURN, CALIFORNIA 95603
TELEPHONE: 530/889-4030
FAX: 530/889-4023
www.placer.ca.gov

Placer County Local Agency Formation Commission
Attn.: Ms. Kris Berry, Executive Officer
110 Maple St.
Auburn, CA 95603

November 26, 2014

SUBJECT: SUBMISSION OF COMMENTS ON NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE TOWN OF OLUMPIC VALLEY INCORPORATION PROPOSAL

Dear Ms. Berry:

FACILITIES

While the "Proposed Plan of Services" does include park maintenance, there is no discussion regarding costs associated with transfer of ownership of properties and facilities currently owned by Placer County to the proposed Town. Those properties and facilities are likely to include the Squaw Valley Park, Squaw Valley Bike Trail and at least three bus shelters. The EIR should analyze any costs associated with such transfers to ensure that the Town can maintain financial solvency and to assess any impacts should levels of service for those facilities be reduced.

FISCAL

The boundaries of the proposed Town lie within a 10 percent Transient Occupancy Tax collection area, initially voted for by the citizens of eastern Placer County in 1996 to provide additional visitor related services and capital projects (and reinstated it twice since), including those that mitigate the impacts of visitors on the natural and built environment. This rate is 2 percent higher than the countywide TOT rate of 8 percent. 100 percent of the 2 percent rate and half of the 8 percent collected in eastern Placer County is allocated by Placer County by contract to the North Lake Tahoe Resort Association to provide certain services, including marketing, visitor information, snow removal, transit services, transit capital, transportation services (including traffic control), housing, social services and projects, and capital projects such as bike trails, wayfinding signage, highway and sidewalk improvements, bus shelters, and other outdoor recreation.

Since 1996, nearly $29 million in TOT funds from this source has been used to leverage nearly $230 million in capital projects, many of which mitigate impacts of Olympic Valley tourism on adjacent communities. Should the proposed incorporation move forward, based on current Olympic Valley TOT collections, there could be as much as a $1.8 million reduction in funding available to provide these services and capital projects. The environmental impact of this reduction in funding, both on services and projects inside and outside the proposed incorporation boundaries, must be analyzed in the no project, proposed project and alternate boundary alternatives.

Given this and other significant economic impacts, and the lack of a comprehensive "Proposed Plan of Services," the EIR must analyze the impacts of reduced levels of service and potential for financial insolvency could have on the environment.

FLOOD CONTROL

Any land use changes due to the proposed project has the potential to create the following impacts, which should be analyzed:

- Increases in peak flow runoff downstream of the project site
- Overloading of the actual or designed capacity of existing stormwater and flood-carrying facilities
- The alteration of 100-year floodplain boundaries

Additional future environmental analyses will be required to specifically quantify the incremental effects of each of the above impacts due to this proposed incorporation and propose mitigation measures if necessary.

GENERAL/PLANNING

While Page 3 of the NOP states that "Placer County LAFO anticipates that the Sphere of Influence will be the same as the city limits," since this is not a definitive statement, this should be clarified through the alternatives analysis and demonstrated clearly on any exhibit maps. The SOI could potentially contain Alpine Meadows, the Truckee River corridor up to the Town of Truckee, and even Martis Valley.

Because property owners representing a sizable portion of the proposed incorporation boundaries have requested exclusion, LAFCO has determined that the companion Comprehensive Fiscal Analysis will consider two possible boundary scenarios. Placer County believes that in order to provide LAFCO with the most flexible policy-making decisions possible, the EIR should consider boundary alternatives identical to the CFA, and any differences in environmental impacts associated with those boundaries should be analyzed.

HOUSING

Olympic Valley will be required to prepare a Housing Element per California Housing Element Law, which mandates that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. All California localities are required by Article 10.6 of the Government Code (section 65580-65590) to adopt Housing Elements as part of their General Plans, and submit draft and adopted elements to the Department of Housing and Community Development. As a newly incorporated Town, a Housing Element will be required. In preparing the Housing Element, the new City will need to evaluate the environmental impacts that would be associated with suitable sites identified for development; the construction of second units to meet regional housing needs; zoning for emergency shelters, transitional housing, and supportive services.

The EIR should analyze an appropriate jobs-housing balance for existing and future employment when running its fiscal and land use scenarios in regard to overburdening County roads with employees commuting into the valley with related negative impacts to air quality, roadway Level of Service, and putting additional strain on the housing markets and needs in Placer County communities.

TRANSIT

On Page 3 under "Proposed Plan of Services" there is a list of public services that should include Tahoe Area Regional Transit service provided by Placer County. Based on the proposed town limits shown on Figure 2, TART provides 2,070 vehicle revenue hours per year and 98,000 vehicle revenue miles per year within the proposed town limits.

On Page 6 under Public Services states that the potential effects on existing transit services provided by Tahoe Area Regional Transit will be evaluated in the EIR. This should include a fiscal analysis comparing the cost of transit service currently provided by Placer County to the amount of annual transit operating and capital funding available to a jurisdiction with a population of 1,000 within the jurisdiction of the Placer County Transportation Planning Agency, and any associated fiscal and environmental impacts should this service no longer be financially feasible.

STORMWATER/OTHER PUBLIC WORKS

On Page 6, Public Services lists road maintenance, bridge maintenance, snow removal of roads and trails, and compliance with state stormwater regulations, although not all are listed in the proponents "Proposed Plan of Services" to be provided. Costs and environmental impacts of all services should be listed and analyzed.

It should be specifically noted that there is a requirement for compliance with stormwater regulations and the Squaw Creek "Total Daily Maximum Load" promulgated by the Lahontan Region State Water Quality Control Board, which is currently managed by Placer County under an NPDES permit. If incorporated, the new Town would be responsible for taking over the permit, and all associated expenses. This is not appear to be contemplated in the proposed public services provided, but must be analyzed in the environmental document, including the availability of funds to maintain permit compliance.

Thank you for the opportunity to comment.

Sincerely,

COUNTY OF PLACER
Jennifer Merchant
Deputy CEO | Lake Tahoe Office

ATTACHMENT: January 16, 2014 Comments to Incorporation Application

COUNTY OF PLACER

BOARD MEMBERS

JACK DURAN
District 1

JIM HOLMES
District 3

ROBERT M. WEYGANDT
District 2

KIRK UHLER
District 4

JENNIFER MONTGOMERY
District 5

OFFICE OF COUNTY EXECUTIVE
David Boesch, County Executive Officer

175 FULWEILER AVENUE / AUBURN, CALIFORNIA 95603
TELEPHONE: 530/889-4030
FAX: 530/889-4023
www.placer.ca.gov

January 16, 2014

Placer County LAFCO
Attn.: Ms. Kris Berry, Executive Officer
110 Maple St.
Auburn, CA 95603

Re: Placer County Comments on Proposal to Incorporate Town of Olympic Valley

Dear Ms. Berry:

Thank you for the opportunity to comment on the application LAFCO received last month proposing to incorporate the Town of Olympic Valley, CA. Placer County has prepared comments regarding the accuracy and completeness of the application and noted preliminary issues that we would request are reviewed as the process moves forward.

Administrative/General Comments
It is Placer County's expectation that if successful, the incorporation of the Town of Olympic Valley would be revenue neutral to Placer County, as currently required and defined by State law.

For purposes of this response the phrase "full cost recovery" includes, but is not limited to, full market value of said property, cost for countywide and other services retained by the County upon incorporation including direct and indirect overhead costs; provisions for reserves and contingencies consistent with County policy; capital maintenance and new capital project costs associated with Countywide service demands, existing liabilities such as retirement and post retirement benefits, as well as any bonded indebtedness.

Most services that the County currently provides on a Countywide basis would continue to be provided upon incorporation and have related direct and indirect expenses such as Administrative Services, Adult System of Care, Adult Protection Services, Assessor, Auditor, District Attorney, Elections, Children's System of Care, Community Clinics, Dental Clinics, Human Services, Probation, Revenue Services, Treasurer/Tax Collector. Most of these services are mandated to be provided by the County and with the exception of Health and Human Service programs, are primarily funded with county discretionary revenue largely derived from property and sales taxes, and possibly others would require their own sources of revenue for those purposes and require full cost recovery to result in revenue neutrality, as referenced above.

Review and evaluation of the extent to which county owned capital assets would be transferred to ownership of the Town—i.e. bike trails, parks, easements, transportation facilities, etc. should be included in the application and any future fiscal or service analyses.

The proposal cites a number of enhanced levels of service, but does not indicate how the enhanced service levels will be achieved or financed. Some examples include animal control, road maintenance, snow removal, law enforcement and traffic enforcement.

Assessor
The Assessor's Office administers over 6,600 secured and unsecured property tax assessments in the proposed "Olympic Valley." Our services to the area include maintaining assessment maps and ownership information for property tax purposes, and valuing properties for the annual and supplemental assessment rolls that fund key government services. The Assessor is also responsible for resolving assessment appeals that are filed by property owners within the proposed boundary. This endeavor requires significant Assessor staff time to prepare, especially given the complexity of the appraisals for the ski resort properties in the area. At the present time, $329,000,000 of assessed value is subject to re-assessment within Squaw Valley due to unresolved assessment appeals that include large resort.

Auditor/Controller
Please see letter, Attachment A.

Facilities Services
The County owns several properties within the boundaries of the proposed incorporation. Please find a spreadsheet detailing these parcels in Attachment B. As shown on the spreadsheet, several of these properties were obtained through a Quitclaim Deed (Doc 2000-0011077 – see attached) from the United States of America, acting through the Forest Service, United States Department of Agriculture. This Deed contains specific language restricting the use of the property. If any of these properties currently owned by the County of Placer will be transferred to the proposed town, the County would require full cost recovery for said properties.

In addition to the services listed by the applicant, should all or any portion of properties currently owned by the County of Placer ever be transferred to the proposed town, there would be property management and maintenance obligations associated with these properties. The application should consider these issues and clearly state a preferred course of action regarding long-term ownership, operation and maintenance. Some properties were deeded by other agencies and carry specific requirements and agreed-to liabilities that would be binding on any successor in ownership. Should the County retain these properties, the County would require full cost recovery to support ongoing property management, operations and maintenance obligations.

The application does not appear to include any reference to the location, construction, lease, or related cost of any Town administrative, public works or other facilities. A pro forma including appropriate space-planning based on proposed staffing and operational demand and all associated capital, operations and maintenance expenses should be included in the application.

The proposed boundaries of the Town of Olympic Valley will match those of the existing Squaw Valley Public Service District and will add a narrow corridor adjacent to the east of the valley a short distance north and south along SR89. There are some homes in this corridor that are currently in unincorporated Placer County and are Tahoe Truckee Sanitary Disposal (TTSD) customers.

SVPSD currently provides water, sewer and trash service to the residents in the current District boundary. If Olympic Valley does incorporate, the District will continue to provide the same services to the expanded service area. TTSD currently provides garbage collection to SVPSD and hauls all waste to the Eastern Regional Material Recovery Facility (ERMRF) for processing of recyclable materials and disposal of residual waste at Lockwood Landfill.

SVPSD is not subject to the requirements of the County's exclusive franchise agreement. However, this District is incorporated into the Agreement with TTSD as one of three service districts that TTSD will continue to serve on terms and conditions established by TTSD with the District and will pay the County the 4% Special Fee on all gross revenues derived by TTSD from the District.

Since TTSD will continue to provide garbage collection services, there does not appear to be any immediate impacts of the incorporation of Olympic Valley associated with solid waste collection and processing. However, since the new Town would not be subject to the County's franchise agreement, at some point they could choose to enter into their own franchise agreement and/or take their waste to another facility and not pay the 4% special fee on the garbage collection or ERL tipping fees. This would result in a loss of revenue for franchise fees that go to the Solid Waste Enterprise Fund and tipping fees that would go to the ERL Enterprise Fund.

The Placer County Park Dedication Fee Program that currently collects fees from new residential construction in Squaw Valley may not be directly transferable. A New Town may need to adopt its own engineering study to enact Quimby and AB1600 mitigation fees.

Current park and trail maintenance funding is provided through CSA Zone of Benefit #162, Transient Occupancy Tax, and user fee funding. There is no general fund appropriation to the maintenance of County recreation facilities in Squaw Valley as erroneously stated in Appendix F. The disposition and transferability of each of these funding sources must be considered in the event of incorporation and any subsequent transfer of ownership.

Many of the public recreation amenities will require periodic major maintenance and rehabilitation including the paves surfaces, synthetic turf, and playground equipment. Funding for major rehabilitation is currently identified on a project by project basis. There is no current sinking fund for major maintenance and rehabilitation.

The operation of public recreation amenities requires compliance with various laws and standards including sections of the American Society for Testing and Materials (ASTM), Consumer Product Safety Commission (CPSC), and California Title 24 accessibility requirements. In the case of playground safety, ASTM and CPSC standards require periodic inspection and certification by certified inspectors.

The extension of the town limits would incorporate a portion of the Truckee Tahoe Trail, both existing and planned, along the Highway 89 corridor. The development and maintenance of this trail would need to be taken into consideration.

Maintenance of Squaw Valley Park and the Class 1 Bike Path is provided through a Maintenance Service Agreement between the County and Tahoe City Public Utility District. Snow removal from the Class 1 Bike Path is provided through a Snow Removal Agreement between the County and Squaw Valley Public Service District. The disposition of these agreements would need to be considered in the event of incorporation.

The Placer County Parks Ordinance, contained in Chapter 12 of the Placer County Code, would not be in effect within an incorporated town. The establishment of a new governing parks ordinance and elimination of Squaw Valley Community Park from the current Placer County Parks Ordinance would need to be considered in the case of incorporation.

Health and Human Services
Most services provided by Health and Human Services would continue to be provided by Placer County. The application references a desire for the Town to provide Animal Services by contract, but does not include the costs of capital equipment and facilities often necessary to provide those services. This is an area where more detail by the applicant should be provided, or the issue clarified.

While many Towns in the State of California choose not to provide development-related Environmental Health services, the proposal should address this issue. Since the application states the Town would provide Land Use services, we would suggest there at least be consideration of provision of related Environmental Health services.

Public Works
Transit and Stormwater capital and operations, which are currently provided by the County should be added to Appendix E, The Transfer of Services Responsibilities, and Appendix F, Services Funding Source.

The Level of Service is listed as Enhanced for Road Maintenance and Snow Removal yet no details are provided as to how these services will be enhanced or how the enhancements will be funded.

This area is included in the Tahoe Region Traffic Impact Fee Benefit District which collects impact fees for transportation projects both within the proposed city and in the surrounding area. There will need to be a determination made as to the impacts to this program and any necessary changes if the incorporation proceeds.

As this proposal proceeds to the municipal services review study, Public Works will be happy to provide details about existing facilities maintained within the area, existing service levels including equipment, personnel and duties and ongoing funding sources and mechanisms.

Boundary Considerations
Placer County recommends that the proposed Town boundaries be discussed in further detail to consider and respond to these and other potential issues:

- The inconsistency between boundaries of the Squaw Valley Public Services District and Squaw Valley Fire Protection District
- The appropriateness of inclusion of the long spur external to Squaw Valley proper, north along State Route 89
- There could be economies of scale by having the boundaries include the Alpine Meadows area, so that Placer County is not providing road maintenance, snow removal and other services for only one of the two populated areas along this area of State Route 89

Next Steps:
As soon as practical, Placer County requests from LAFCO an updated process steps timeline.

In order to ensure a complete analysis of countywide and other services, Placer County requests that LAFCO share the fiscal analysis scope of work in advance to issuance for Requests for Proposals so that we may review it in order to ensure its complete analysis of Countywide and other services.

Thank you again for the opportunity to comment on the application. Given the tight timeline for review and comment, Placer County would like to maintain close contact with LAFCO to ensure that these and all issues can be properly addressed.

Sincerely,

COUNTY OF PLACER

David Boesch
Placer County Executive Officer

Attachments: x2 (A & B)

CC: Placer County Board of Supervisors
Mike Geary, General Manager Squaw Valley PSD

Attachment A

MEMORANDUM OFFICE OF THE AUDITOR-CONTROLLER COUNTY OF PLACER

TO: Kris Berry, LAFCo Executive Officer

FROM: Jayne Goulding, Managing Accountant Auditor J\9

DATE: January 7, 2014

SUBJECT: Request for Comment: Incorporation of Olympic Valley- LAFCo #2013-02

I am writing in response to your memo of 12/30/13 requesting comment on the proposed incorporation of Olympic Valley- LAFCo #2013-02.

The application states that the boundaries of the proposed Town are identical to those of the Squaw Valley Public Service District (SVPSD). The tax rate areas (TRAs) within the SVPSD are:

071-005
091-001
091-037
091-077
091-080
091-123

I looked up the taxing agencies within those TRAs so that I could compare them to those listed on the application. It appears that not all of these agencies were listed on the application, so I wanted to make you aware of)his. My findings are as follows:

Non-School Agencies within the SVPUDArea	Agencies Listed on Section 9 of the ADDlicatlon	Agencies Listed on Appendix E of the Application
Placer Co Resource Conservation		
Placer Co Water Aaencv		
Squaw Valley PSD	X	X
Tahoe City Cemetery		
Tahoe Citv PUD		
Tahoe Forest Hospital		
Tahoe Truckee Sanitation		X
Truckee Tahoe Airport		

Placer County itself (including the Library) was shown on the application, but as you can see above, it appears that several other taxing agencies were omitted. I cannot speak to the actual services they provide in those TRAs, only that they receive a portion of the1% property taxes from that area.

ATTACHMENT B

County-Owned Property within the Proposed City Limits

APN	Property Name	Address	Acres	Instrument Number	Property Owner
096-221-027-000*	Squaw Valley - Right of Way - Squaw Peak Rd	NO ADDRESS ON FILE	0.86	2000-0078071	PLACER COUNTY
096-221-030-000			0.82	2011-0089573	
096-221-031-000			106 sq ft		
096-221-032-000			7 sq ft		
096-221-033-000			14 sq ft		
096-290-010-000	Squaw Valley Right of Way Squaw Creek Road	NO ADDRESS ON FILE	0.65	2000-0011077	PLACER COUNTY
096-290-021-000	Squaw Valley Right of Way	NO ADDRESS ON FILE	0.67	2000-0011077	PLACER COUNTY
096-290-055-000	101 Squaw Valley Road, Olympic Valley	NO ADDRESS ON FILE	0.1	2000-0011077	PLACER COUNTY
096-290-056-000	Squaw Valley Park	101 SQUAW VALLEY RD	24.74	2000-0011077	PLACER COUNTY
096-290-061-000	Squaw Valley Road	NO ADDRESS ON FILE	0.22	2000-0011077	PLACER COUNTY
096-290-062-000	Bus Shelter	3033 RIVER RD	0.6	2000-0011077	PLACER COUNTY
096-310-009-000	River Road	101 SQUAW VALLEY RD	0.21	2000-0011077	PLACER COUNTY
096-310-040-000	Highway 89 - Squaw Valley	NO ADDRESS ON FILE	0.66	2000-0011077	PLACER COUNTY

*096-221-027-000 was split into parcels 096-221-030 through 035 by instrument 2011-0089573. Placer County retained ownership of 096-221-030 through -033.

STOEL RIVES LLP
ATTORNEYS AT LAW

10008 S.E. River Street
Truckee California 96161
main 530.582.2280
fax 530.582.2281
www.stoel.com

GREG C. GATTO
Direct (530) 582-2288
gcgatto@stoel.com

November 14, 2014

VIA E-MAIL KBERRY@PLACER.CA.GOV

Kristina Berry, AICP
Executive Officer
Placer County LAFCO
110 Maple Street
Auburn, CA 95603

Re: Request to be Excluded From Proposed Incorporation Boundaries of Town of Olympic Valley - APN 096-540-013

Dear Ms. Berry:

This request is submitted on behalf of Julie S. Carville, trustee of the Julie S. Carville Trust, dated December 18, 1997, and Philip P. Carville, trustee of the Carville Family Trust, dated December 10, 2003 (collectively the "Carvilles"). The Carvilles are the owners of an approximately 10.5 acre parcel of property, APN 096-540-013, located off of Washoe Drive in Olympic Valley, California (the "Carville Property"). The Carvilles hereby request that the Carville Property be excluded from the proposed incorporation boundaries of the Town of Olympic Valley.

Thank you for your attention to this request.

Respectfully,

Greg C. Gatto

77595075.1 0054700-00001

EXHIBIT 2

Boundary Change Request Letter

STOEL RIVES LLP
ATTORNEYS AT LAW

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Dear Ms. Berry:

This request is submitted on behalf of Julie S. Carville, trustee of the Julie S. Carville Trust, dated December 18, 1997, and Philip P. Carville, trustee of the Carville Family Trust, dated December 10, 2003 (collectively the "Carvilles"). The Carvilles are the owners of an approximately 10.5 acre parcel of property, APN 096-540-013, located off of Washoe Drive in Olympic Valley, California (the "Carville Property"). The Carvilles hereby request that the Carville Property be excluded from the proposed incorporation boundaries of the Town of Olympic Valley.

Thank you for your attention to this request.

Respectfully,

Greg C. Gatto

December 10, 2014
Item No 7

PLACER COUNTY
LOCAL AGENCY FORMATION COMMISSION

110 Maple Street, Auburn California 95603 530-889-4097
Email: lafco@placer.ca.gov

STAFF REPORT

DATE: December 3, 2014

TO: Chairman Weygandt, Commissioners Allen, Holmes, Kirby, Rudd, Treabess, Ucovich. Alternate Commissioners Duran, Gray, Nader, Sheehan.

FROM: Kris Berry, AICP, Executive Officer

SUBJECT: Agreement with William Wright to provide legal services for Placer LAFCO

RECOMMENDATION

Authorize the Chair to execute a Legal Services Agreement with the Law Office of William Wright for legal services as Counsel to Placer LAFCO effective December 13, 2014. This agreement replaces our current agreement for services.

DISCUSSION AND ANALYSIS:

Our current contract for Legal Services with the Law Office of William Wright has a contractual limit of $25,000.00 per fiscal year, with the ability to increase that amount by $15,000.00 in a fiscal year with written authorization from the Executive Officer. With the increased activity in the past and current fiscal year, we will likely be exceeding this amount. This contract would increase the limit to $40,000.00 per fiscal year. This amount could be exceeded with prior written authorization from the Executive Officer if the services are reimbursable to LAFCO by separate contract with an applicant for LAFCO services. In addition, the revised contract would increase the hourly billing rate from $180.00 to $200.00. per hour.

FISCAL IMPACT

Based on anticipated legal fees, we budgeted $30,000 for legal for fiscal year 2014 – 2015 with the expectation that a significant portion of the legal budget would consist of reimbursable expenses, which would not affect the budget. As of December 3, 2014, the total amount spent on legal fees for the fiscal year has been $23,552.40, of which $12,748.80 is reimbursable, proposal related expenses and $10,803.50 is non-reimbursable activity. There will be no impact to the budget based on the fact that a significant amount of the legal expenses are billable to proponents.

Exhibits: Legal Services Agreement

PLACER LOCAL AGENCY FORMATION COMMISSION
LEGAL SERVICES AGREEMENT

THIS AGREEMENT is made at Auburn, California, as of _____, 2014, by and between the Placer Local Agency Formation Commission, ("LAFCO"), and the Law Office of William Wright ("Contractor"), who agree as follows:

1. **Services**. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the services described in Exhibit A. Contractor shall provide said services at the time, place, and in the manner specified in Exhibit A.

2. **Payment**. LAFCO shall pay Contractor for services rendered pursuant to this Agreement at the time and in the amount set forth in Exhibit A. The payment specified in Exhibit A shall be the only payment made to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all billings for said services to LAFCO in the manner specified in Exhibit A; or, if no manner be specified in Exhibit A, then according to the usual and customary procedures which Contractor uses for billing clients similar to LAFCO.

3. **Facilities, Equipment and Other Materials, and Obligations of LAFCO**. Unless otherwise specified herein, Contractor shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement.

4. **Exhibits**. All exhibits referred to herein will be attached hereto and by this reference incorporated herein.

5. **Time for Performance**. Time is of the essence. Failure of Contractor to perform any services within the time limits set forth in Exhibit A shall constitute material breach of this contract.

6. **Independent Contractor**. At all times during the term of this Agreement, Contractor shall be an independent Contractor and shall not be an employee of LAFCO. LAFCO shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement. LAFCO shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement.

7. **Licenses, Permits, Etc**. Contractor represents and warrants to LAFCO that it has all licenses, permits, qualifications, and approvals of whatsoever nature, which are legally required for Contractor to practice its profession. Contractor represents and warrants to LAFCO that Contractor shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for Contractor to practice its profession at the time the services are performed.

8. **Time**. Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of Contractor's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

9. **Insurance**:

   1. **HOLD HARMLESS AND INDEMNIFICATION AGREEMENT**

The Contractor hereby agrees to protect, defend, indemnify, and hold PLACER LAFCO free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by PLACER LAFCO arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of LAFCO) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the contract or agreement, excluding however any and all claims, liens , demands or causes of action challenging or arising out of any decision, action, opinion or determination of the LAFCO Commission. Contractor agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the Contractor. Contractor also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against Contractor or LAFCO or to enlarge in any way the Contractor's liability but is intended solely to provide for indemnification of PLACER LAFCO from liability for damages or injuries to third persons or property arising from CONTRACTOR'S performance pursuant to this contract or agreement.

As used above, the term PLACER LAFCO means PLACER LAFCO or its officers, agents, employees, and volunteers.

10. INSURANCE:

Contractor shall file with LAFCO concurrently herewith a Certificate of Insurance, in companies acceptable to LAFCO, with a Best's Rating of no less than A-:VII showing.

WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars ($1,000,000) each accident for bodily injury by accident, one million dollars ($1,000,000) policy limit for bodily injury by disease, and one million dollars ($1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to Contractor's employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to Placer LAFCO."

Contractor shall require all Subcontractors to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with LAFCO upon demand.

GENERAL LIABILITY INSURANCE:

A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of Contractor, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

(1) Contractual liability insuring the obligations assumed by Contractor in this Agreement.

B. One of the following forms is required:

(1) Comprehensive General Liability;
(2) Commercial General Liability (Occurrence); or
(3) Commercial General Liability (Claims Made).

C. If Contractor carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of:

→One million dollars ($1,000,000) each occurrence
→Two million dollars ($2,000,000) aggregate

D. If Contractor carries a Commercial General Liability (Occurrence) policy:

(1) The limits of liability shall not be less than:

→One million dollars ($1,000,000) each occurrence (combined single limit for bodily injury and property damage)
→One million dollars ($1,000,000) for Products-Completed Operations
→Two million dollars ($2,000,000) General Aggregate

(2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars ($2,000,000).

E. Special Claims Made Policy Form Provisions:

Contractor shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of LAFCO, which consent, if given, shall be subject to the following conditions:

(1) The limits of liability shall not be less than:

→One million dollars ($1,000,000) each occurrence (combined single limit for bodily injury and property damage)
→One million dollars ($1,000,000) aggregate for Products Completed Operations
→Two million dollars ($2,000,000) General Aggregate

(2) The insurance coverage provided by Contractor shall contain language providing coverage up to six (6) months following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

ENDORSEMENTS:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

A. "Placer LAFCO, its officers, agents, employees, and volunteers are to be covered as insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."

B. "The insurance provided by the Contractor, including any excess liability or umbrella form coverage, is primary coverage to Placer LAFCO with respect to any insurance or self-insurance programs maintained by Placer LAFCO and no insurance held or owned by Placer LAFCO shall be called upon to contribute to a loss."

C. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to Placer LAFCO."

AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars ($1,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

PROFESSIONAL LIABILITY INSURANCE (ERRORS & OMISSIONS):

Professional Liability Insurance for Errors and Omissions coverage in the amount of not less than one million dollars ($1,000,000).
If Contractor sub-contracts in support of Contractor's work provided for in the agreement,
Professional Liability Insurance for Errors shall be provided by the subcontractor in an amount not less than one million dollars ($1,000,000) in aggregate.
The insurance coverage provided by the Contractor shall contain language providing coverage up to one (1) year following completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

11. **Contractor Not Agent**. Except as LAFCO may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of LAFCO in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied pursuant to this Agreement to bind LAFCO to any obligation whatsoever.

12. **Assignment Prohibited**. Contractor may assign its rights and obligations under this Agreement only upon the prior written approval of LAFCO, said approval to be in the sole discretion of LAFCO.

13. **Personnel**.

A. Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that LAFCO, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by Contractor to perform services pursuant to this Agreement, including those members of the Project Team as explained below, Contractor shall remove any such person immediately upon receiving notice from LAFCO of the desire of LAFCO for removal of such person or persons.

B. Notwithstanding the foregoing, if specific persons are designated as the "Project Team" in Exhibit A, Contractor agrees to perform the work under this agreement with those individuals identified. Reassignment or substitution of individuals or subcontractors shall be approved in advance by the Executive Officer. Failure to comply with this provision shall be grounds for cancellation of the agreement by LAFCO, and payment shall be made pursuant to Section 15 (Termination) of this Agreement only for that work performed by Project Team members.

14. **Standard of Performance**. Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession. All products of whatsoever nature which Contractor delivers to LAFCO pursuant to this

Agreement shall be prepared in a substantial first class and workmanlike manner and conform to the standards or quality normally observed by a person practicing in Contractor's profession.

15. **Termination**.

A. This contract shall continue from year to year until cancelled by one of the parties. LAFCO shall have the right to terminate this Agreement at any time by giving notice in writing of such termination to Contractor. In the event LAFCO shall give notice of termination, Contractor shall immediately cease rendering services upon receipt of such written notice, pursuant to this Agreement. In the event LAFCO shall terminate this Agreement:

1) Contractor shall deliver copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, Photostatting, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

2) LAFCO shall have full ownership and control of all such writings delivered by Contractor pursuant to this Agreement.

3) LAFCO shall pay Contractor the reasonable value of services rendered by Contractor to the date of termination pursuant to this Agreement not to exceed the amount documented by Contractor and approved by LAFCO as work accomplished to date; provided, however, that LAFCO shall not in any manner be liable for lost profits which might have been made by Contractor had Contractor completed the services required by this Agreement. In this regard, Contractor shall furnish to LAFCO such financial information as in the judgment of LAFCO is necessary to determine the reasonable value of the services rendered by Contractor. The foregoing is cumulative and does not affect any right or remedy, which LAFCO may have in law or equity.

B. Contractor may terminate its services under this Agreement upon thirty (30) working days' advance written notice to LAFCO.

16. **Non-Discrimination**. Contractor shall not discriminate in its employment practices because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex in contravention of the California Fair Employment and Housing Act, Government Code section 12900 et seq.

17. **Records**. Contractor shall maintain, at all times, complete detailed records with regard to work performed under this agreement in a form acceptable to LAFCO, and LAFCO shall have the right to inspect such records at any reasonable time. Notwithstanding any other terms of this agreement, no payments shall be made to Contractor until LAFCO is satisfied that work of such value has been rendered pursuant to this agreement. However, LAFCO shall not unreasonably withhold payment and, if a dispute exists, the withheld payment shall be proportional only to the item in dispute.

18. **Ownership of Information**. All professional and technical information developed under this Agreement and all work sheets, reports, and related data shall become the property of LAFCO, and Contractor agrees to deliver reproducible copies of such documents to LAFCO on completion of the services hereunder. LAFCO agrees to indemnify and hold Contractor harmless from any claim arising out of reuse of the information for other than this project.

19. **Waiver**. One or more waivers by one party of any major or minor breach or default of any provision, term, condition, or covenant of this Agreement shall not operate as a waiver of any subsequent breach or default by the other party.

20. **Conflict of Interest**. Contractor certifies that no official or employee of LAFCO, nor any business entity in which an official of LAFCO has an interest, has been employed or retained to solicit or aid in the procuring of this agreement. In addition, Contractor agrees that no such person will be employed in the performance of this agreement without immediately notifying LAFCO.

21. **Entirety of Agreement**. This Agreement contains the entire agreement of LAFCO and Contractor with respect to the subject matter hereof, and no other agreement, statement, or promise made by any party, or to any employee, officer or agent of any party, which is not contained in this Agreement, shall be binding or valid.

22. **Alteration**. No waiver, alteration, modification, or termination of this Agreement shall be valid unless made in writing and signed by all parties, except as expressly provided in Section 15, Termination.

23. **Governing Law**. This Agreement is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect. Any legal proceedings on this agreement shall be brought under the jurisdiction of the Superior Court of the County of Placer, State of California, and Contractor hereby expressly waives those provisions in California Code of Civil Procedure §394 that may have allowed it to transfer venue to another jurisdiction.

24. **Notification**. Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the mail, postage prepaid, and addressed to the parties as follows:

PLACER LAFCO:	CONTRACTOR:
Placer LAFCO Attn: Kris Berry, Executive Officer 145 Fulweiler Ave., Suite 110 Auburn, CA 95603	Law Office of William Wright Attn: William Wright 2828 Easy Street, Suite 3 Placerville, CA 95667
Phone: (530) 889-4060 Fax: (530) 886-4626	Phone: (530) 344-8096 Fax: (530) 344-8098

Any notice so delivered personally shall be deemed to be received on the date of delivery, and any notice mailed shall be deemed to be received five (5) days after the date on which it was mailed.

Signatures on following page.

Executed as of the day first above stated:

PLACER LAFCO

By: _____

Printed Name/Title: _____

CONTRACTOR

By: _____

Name: William Wright, Law Offices of William Wright

Title: Owner

Exhibit A

Scope of Work & Payment for Services Rendered

I. SERVICES

The Contractor shall act as an independent Contractor to provide professional legal services as needed and as appropriate for service as general counsel to Placer LAFCO. Contractor shall work directly with Placer LAFCO Commissioners and the LAFCO Executive Officer.

No specific volume of contract services will be guaranteed for any time period.

Services shall include but not be limited to:

- Attend hearings to advise the Commission, on not less than five business days notice. If less notice is provided, Contractor shall make every effort possible to attend such meetings or hearings as may be requested by LAFCO;
- Provide legal research as requested, in a timely manner, to provide advice to LAFCO;
- Prepare resolutions, decisions and other documents as needed by the Commission.

SETTLEMENT. Contractor shall not settle any matter without approval of the LAFCO. Executive Officer. Contractor shall notify LAFCO promptly of the terms of any settlement offer received.

PRINCIPAL ASSIGNED ATTORNEY. The principal attorney assigned to this contract shall be William M. Wright. The principal attorney may assign work to associate attorneys in the firm or subcontract attorneys without prior approval of LAFCO. Any substitution of personnel staff specifically assigned to a Project Team shall be pre-approved by LAFCO, pursuant to Section 13 of this Agreement.

RELEASE OF PAPERS AND PROPERTY. At the termination of services under this agreement, Contractor will release promptly to LAFCO on request, all of LAFCO's papers and property.

II. PAYMENT SCHEDULE

Contractor shall bill LAFCO at the rate of $200.00 per hour for attorney services and shall submit its billing on a monthly basis.

Contractor shall not perform work or submit bills in excess of $40,000 in a fiscal year. Upon receiving prior written authorization from the Executive Officer of LAFCO, Contractor may perform additional services in excess of the $40,000 limit so long as the services are reimbursable to LAFCO by separate contract with an applicant for LAFCO services.

LAFCO will provide Contractor with a 1099 Form at the end of the taxable year in which payment is received. Contractor is responsible for taxes and/or assessments imposed on account of the payment of fees to Contractor or Contractor's own employees pursuant to this agreement.