3.2.4 Organizations Responses

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01

CENTER for BIOLOGICAL DIVERSITY Because life is good.

July 17, 2015

Comments sent via electronic mail on 7/17/2015 to cdraecs@placer.ca.gov, references sent via Fedex

Maywan Krach
Community Development Technician
Placer County Community Development Resource Agency,
Environmental Coordination Services
3091 County Center Drive, Suite 190
Auburn, CA 95603

Re: Comments on Squaw Valley Specific Plan Draft Environmental Impact Report

Dear Mr. Krach,

These comments are submitted on behalf of the Center for Biological Diversity ("Center") on the Draft Environmental Impact Report ("DEIR") for the proposed Village at Squaw Valley Specific Plan ("Project"). The DEIR fails to adequately analyze a range of environmental impacts and mitigation measures. At a minimum, the DEIR must be revised and recirculated to remedy these deficiencies, so that agency decision-makers and the general public can be properly informed of the Project's significant environmental effects. The Project must also be revised to resolve its failure to comply with the California Environmental Quality Act (CEQA). 01-1

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has more than 900,000 members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people in Northern California.

While the DEIR's shortcomings are numerous, this letter focuses specifically on the DEIR's analysis of the project's impacts on water resources, biological resources, and greenhouse gases. O1-1 cont.

I. The DEIR's Water Extraction Information is Flawed and Misleading

California is currently in the midst of an unprecedented drought. Climate change is also expected by many to put a strain on the state's water resources and infrastructure. During this time the public and decision-makers should be especially conscious of new projects and activities that intend to further exploit California's scarce water resources. This DEIR does not sufficiently describe or analyze the Project's expected water extraction activities. Some of the information offered is confusing, contradictory, or misleading. It is essential that the Project's impacts with regards to water extraction are fully known and understood during the EIR process, so that appropriate mitigation measures can be put in place to ensure that this Project does not exacerbate California's already dire water problems. O1-2

A. The DEIR's description of water extraction in the Project area is inconsistent and incomplete

An "accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*Cnty. of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193; (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 655 (project description held unstable and misleading).) "However, a curtailed, enigmatic or unstable project description draws a red herring across the path of public input." (*San Joaquin Raptor*, 149 Cal.App.4th, at 655.).

An inaccurate or truncated project description is prejudicial error because it fails to "adequately apprise all interested parties of the true scope of the project." (*See City of Santee v. Cnty. of San Diego* (1989) 214 Cal.App.3d 1438, 1454-55.) "Only through an accurate view of the project may the public and interested parties and public agencies balance the proposed project's benefits against its environmental cost, consider appropriate mitigation measures, assess the advantages of terminating the proposal and properly weigh other alternatives." (*San Joaquin Raptor*, 149 Cal.App.4th, at 655.) O1-3

The DEIR for the Village at Squaw Creek violates the CEQA requirement to provide an "accurate, stable, and finite" description of the true project, because it is not clear from a reading of the complete document exactly where the Project intends to acquire water for operations, how much water will be extracted from these sources, and how those extractions will affect the sources.

At various locations within the DEIR and the Water Supply Assessment ("WSA") upon which the DEIR relies, the Applicant describes the Project as relying upon between one and four separate water sources to support its operations. First, the WSA begins its "Water Supply" chapter by declaring that "this WSA assumes that the Project's total demand will be met with groundwater produced from the [Olympic Valley Groundwater] Basin." (DEIR Appendix C at 5-1.) However, the WSA goes on to state, in the same chapter, that fractured bedrock groundwater "will continue to be a source of [water] supply," and that wells accessing this source "are located in fractured bedrock, and not in the alluvial Olympic Valley Groundwater Basin." (DEIR Appendix C at 5-3.) This makes the fractured bedrock a second source of water for the Project, and means that the WSA's initial statement confusing and misleading. As explained above, this lack of clarity and consistency in the project description makes the DEIR inadequate under CEQA. (14 Cal Code Regs § 15124.) O1-4

If the Project will indeed be relying on continued exploitation of the fractured bedrock groundwater found in the slopes above the Olympic Valley floor, the DEIR should more fully explore the impacts of utilizing this resource. Neither the DEIR nor the WSA describe in sufficient detail how the fractured bedrock groundwater is replenished, or how this replenishment may be affected by the current or future drought, or by climate change. It is therefore impossible for the public or decision-makers to decide whether extractions from this source are appropriate and whether mitigation measures should be required. It is also unclear from these documents whether the bedrock fractures are related to the groundwater or surface water systems found on the opposite side of the ridges on which the fractures are found. It is conceivable that extracting water from one side of a ridge would affect the availability of water on the other side. If the physical structure of these fractures makes that impossible, that should be described and explained. If this type of interaction is indeed possible, then the DEIR should analyze the impact of these extractions on biological and other resources and systems located in other areas affected by these bedrock fractures. O1-5

The third water source described in the DEIR is "a small amount of surface water is collected in ponds" for use in snowmaking. (DEIR at 14-3.) However, the DEIR does not describe this source of water in any meaningful detail. There is no information provided in the DEIR about where this surface water comes from, how much is collected, how much will be used, whether and how excess water will be disposed of, how this source may be affected by drought or climate change, where these ponds are located, or whether any biological resources will be affected by extractions from these ponds. There is also no mention of whether the ponds may qualify as "waters of the United States" for the purposes of the Clean Water Act, making their use subject to the attainment of additional federal permits. O1-6

The lack of clarity in the DEIR makes it appear like there may also be a fourth source of water that the Applicant plans to use for the project. The DEIR claims that "the resort's snow making water supply system" does not utilize water from the aquifer, but rather it "relies on a different water source, [and] may provide irrigation water at some time in the future." (DEIR at 4-31.) Because the DEIR does not specify whether or not this "different source" is one of the sources previously discussed, it is not possible for the public or decision-makers to assess the effects of this water usage and any necessary mitigations. As in the case of the surface water source described above, the DEIR does not sufficiently describe or analyze this source of water. There is no information provided in the DEIR about where this water source comes from, how much will be extracted from the source, how water is extracted from the source, how this source will be affected by drought or climate change, where this source and the associated extraction mechanisms are located, or whether any biological resources will be affected by extractions from this source. There is also no mention of whether the source may qualify as "waters of the United States" for the purposes of the Clean Water Act, making their use subject to the attainment of additional federal permits. O1-7

Uncertainty surrounding the number of sources of water for this Project as well as the impacts associated with exploiting each of them undermines the DEIR's value as an assessment of the environmental impact of the Project and undermines the ability of decision-makers and the public to assess the impact of the Project. This runs counter to the purpose of the DEIR and of CEQA to provide the public and decision-makers with the information necessary to make informed decisions regarding the proposed Project. (CEQA Guidelines § 15126.5(a)(2); Cal. Pub. Res. Code § 21002, 21003.)

B. The DEIR does not sufficiently describe and analyze future snowmaking activities related to the Project

The DEIR does not fully discuss the future water supply needs that are associated with snowmaking at the Project site. As discussed more thoroughly below, neither the DEIR nor the WSA properly analyze the impact of drought or climate change on the Project. Of special concern for an analysis of the Project's water needs is the impact that these environmental processes may have on water demand for use in snowmaking. Both drought and climate change can have large impacts on snowfall levels and it is foreseeable that the Applicant would desire to supplement natural snowfall with artificial snowmaking in years where the natural supply of snow is not sufficient for the typical operations of the Project. O1-8

The WSA undertakes its analysis of water supply and demand for the Project by assuming that the volume of water the Applicant will use for snowmaking will equal the average amount that they used over the past decade. However, the WSA states only that the Applicant has "indicated a commitment to hold snowmaking production from the Basin to historical volumes." (DEIR Appendix C at 4-4.) This language does not create an enforceable mitigation

measure, because it is not certain or measurable. This is especially true as the water volume used for snowmaking varies widely from year to year, presumably depending on snow conditions on the mountain. (DEIR at 14-6.) It is unclear whether the "historical volumes" mentioned above are a reference to a multi-year average, a historical maximum, or some other figure.

O1-8 cont.

The lack of clarity surrounding the volume of water that is expected to be used by the Applicants in order to produce artificial snow, particularly in conjunction with the confusion about the source of water used in snowmaking (discussed above), is a violation of CEQA, because it does not provide the public and decision-makers with the information necessary to make informed decisions regarding the proposed Project. (CEQA Guidelines § 15126.5(a)(2); Cal. Pub. Res. Code § 21002, 21003.)

C. The DEIR's Water Supply Assessment improperly underestimates the impact of the project on groundwater resources

Independent analysis of the WSA has shown that its model substantially overestimates the amount of water available within the Squaw Creek watershed in a given year at a factor of 10:1. (Tom Myers, Technical Memorandum: Review of Draft Environmental Impact Report for the Village at Squaw Valley Specific Plan (2015) at 2.) The WSA also underestimates the impact that the groundwater pumping proposed in the DEIR would have on drawdown in the alluvial aquifer. (Id.)

The DEIR admits that withdrawing too much water from the aquifer would have serious, negative ecological consequences to Squaw Creek and the biological communities that rely upon it. (DEIR at 13-52 – 13-75.) Since it has been shown that the WSA's analysis of the sustainability of pumping from the aquifer is fundamentally flawed, the DEIR's associated mitigation measures need to be redesigned to take into account the smaller amount of water available in the watershed.

O1-9

Failing to create a new water supply and demand model, or failure to create new mitigation measures that take into account the new and more accurate water supply and demand model violate CEQA by failing to provide the public and decision-makers with the information necessary to make an informed decision, and it would also be an inappropriate deferral of analyzing a mitigation measure. (CEQA Guidelines § 15126.5(a)(2); Cal. Pub. Res. Code § 21002, 21003.)

D. The Water Supply Assessment is unacceptably outdated

The DEIR's analysis of the Project's impacts on water resources is primarily supported by the WSA which is supplied as an Appendix to the DEIR itself. (DEIR at 14-2.) Additionally, many mitigation measures throughout the DEIR rely at least in part on the analyses conducted in

O1-10

the WSA. (See e.g., DEIR at 6-78–79.) However, the WSA is now over a year old and admittedly lacks data from 2014 and 2015 that would better represent the effects of the current drought. The WSA states:

> The Tahoe region and the rest of California are currently in the midst of another multiple year drought that could be more severe than those currently represented in the Model. The effects of this drought have not yet fully occurred and the observation data resulting from these effects (such as water levels, stream flow, etc.) continue to be collected. The Model should be updated when these data becomes [sic] available . . . The current year, 2014, could be the year with the lowest snowfall on record. For this period, the effects of the current drought have not yet been observed in the Basin. Generally, water levels are at their lowest in the early fall, so the specific water levels for 2014 are unknown at this time. In addition, observed data for Squaw Creek are not yet available and are necessary to understanding the Basin response. Therefore, data for this time period could not be included in the modelling [sic] or used to assess water sufficiency. (DEIR Appendix C at 6-6.)

O1-10 cont.

Here, the WSA itself admits that it should be updated and that the assessment was done without the proper data for understanding the response of the Squaw Creek basin. Today there are more and better data available to assess the impacts of the current drought on the Project site, and to defer analyses of these data until after the completion of the EIR process would be inappropriate, as it would fail to create a complete analysis of the Project's impacts and it would deny the public and decision-makers the ability to make a fully informed assessment of the Project. (CEQA Guidelines § 15125(a).)

Additionally, the State of California has enacted new water regulations since the finalization of the WSA that warrant discussion and analysis as they relate to the Project and the Project site. These regulations may alter the Applicant's ability to use of the site as contemplated in the DEIR, or may impact the Applicant's ability to install or use new or existing wells.

Perhaps more significantly, the DEIR does not appropriately take into consideration the effect of climate change on water supply availability or on the availability of natural snow for recreational use at and around the Project site. The DEIR does not address the possibility of climate change reducing the reliability of water supply to the Project. (DEIR at 16-22.) Furthermore, while the WSA gave a qualitative assessment of potential changes in precipitation patterns at the Project site, it did not venture to explain how these changes may coincide or conflict with water demand from the Project or the water needs of local biological communities. (DEIR Appendix C at 7-1). The DEIR also fails to discuss the potential of reduced snowfall as a

O1-11

result of climate change. (DEIR at 16-22.) The WSA mentions reduced snowfall and climate change, but fails to analyze their potential effects. (DEIR Appendix C at 6-6 ("Decreased snowfall could result in increased artificial snowmaking and changes in water demand due to climatic changes, which add further variables to the non-linear relationship between precipitation and groundwater elevations. Therefore, it is not possible to accurately estimate the volume and timing of recharge to the Basin without appropriate data.").)

The DEIR should make every effort to fully analyze the likely environmental impact of the Project, including the foreseeable impacts of drought and climate change. Failing to do so deprives the public and decision-makers of the information necessary to make informed decisions regarding the proposed Project. (CEQA Guidelines § 15126.5(a)(2); Cal. Pub. Res. Code § 21002, 21003; *Stanislaus Natural Heritage Project, Sierra Club v. County of Stanislaus*, 48 Cal.App.4th 182, 204-206 (1996) (analysis of significant effects may not be deferred to later developments under the specific plan, nor to later tiered EIRs.).) O1-11 cont.

E. The DEIR does not provide specific, enforceable mitigation measures

The DEIR indicates that some water conservation measures will be undertaken, but does not commit the Applicant to any measurable, verifiable, or enforceable measures, as required under CEQA. (DEIR at 14-31, 14-35, Appendix C 4-5, Appendix C 4-6.) Given the flaws in the WSA modeling (discussed above), it is likely that projected water use will create significant environmental impacts. These impacts would need to be mitigated by the Applicant in the EIR. Deferring the proposal and analysis of these mitigation measures is inappropriate and violates CEQA. (*Stanislaus*, 48 Cal.App.4th 182, 204-206 (1996) (analysis of significant effects may not be deferred to later developments under the specific plan, nor to later tiered EIRs.).) O1-12

II. The DEIR Fails to Sufficiently Assess the Project's Impact on Water Quality

A. The DEIR does not provide sufficient information to determine the Project's impact on waters of the United States

The entire Project area is within the Squaw Creek watershed, which includes the main stem and some smaller tributaries to the creek. (Ascent Environmental, Village at Squaw Valley Specific Plan Draft Environmental Impact Report (May 2015) 3-4 & 13-9 [hereinafter "DEIR"].) Squaw Creek then drains into the Truckee River only a few miles downstream from the Project area. The DEIR admits that many of the bodies of water within the Project site should properly be considered "waters of the United States" for the purposes of the Clean Water Act, and that the Applicant will therefore have to receive Clean Water Act Section 404 permits from the U.S. Army Corps of Engineers (USACE) for discharge and fill taking place in the jurisdictional waters as a result of construction activities on the site. (DEIR at 3-40.) O1-13

Applicant claims to have already submitted their proposed delineations of the waters of the United States to USACE, but have not had them verified yet. (DEIR at 6-17.) However, without a finalized, definitive delineation of the waters of the United States (including jurisdictional wetlands), the lead agency and the public do not have enough information to evaluate the Project's impacts on those waters and wetlands, assess the sufficiency of the proposed measures to mitigate these impacts, and consider project alternatives. (Sierra Club v. City of Orange (2008) 163 CA4th 523, 533). Without a complete and accurate description of the Project, it is not possible to determine the scope of environmental review and provide an accurate analysis of environmental impacts. (County of Inyo v City of Los Angeles (1977) 71 Cal.App.3d 185, 199). The EIR should reflect the verified delineation of the waters of the United States, so that any impacts to them can be appropriately assessed and mitigated by the Applicant. O1-13 cont.

By failing to offer an analysis based on accurate description of existing conditions, the DEIR fails to provide the correct baseline information that would allow the public or decision-makers to evaluate significant adverse impacts the Project will have on the environment, in violation of CEQA. (CEQA Guidelines § 15125(a); Communities for a Better Environment v. South Coast Air Quality Management Dist., 48 Cal. 4th 310, 315 (Cal. 2010).) A valid baseline should accurately depict the "physical conditions in the project area as they exist at the time of the [DEIR]." (CEQA Guidelines § 15125(a) & (e).) Because the DEIR fails to provide this baseline, neither it nor the interested public could compare "what will happen if the project is built with what will if the site is left alone." (*Woodward Park Homeowners Assn, Inc. v. City of Fresno* (2007) 150 Cal.App.4th 683, 687.)

B. The DEIR does not adequately analyze and disclose the type and volume of pollutants that will be discharged into Squaw Creek and other surface waters

While the DEIR devotes some discussion to allowable sediment load in Squaw Creek as a result of construction and operation of the Project, this issue is not fully analyzed and nor are a host of other water pollutants that may be released into Squaw Creek as a result of implementation of the Project. (DEIR at 13-25, 13-47.) CEQA requires that a DEIR disclose and analyze the full scope of the project and its impacts, in order that the public and decision-makers have a full understanding of the proposal. Failing to provide the details necessary for this disclosure fundamentally undermines the purpose of CEQA. (County of Inyo, supra, 71 Cal.App.3d 185.) O1-14

In this case, the Applicant failed to disclose all of the potentially harmful chemicals it intends to use on the site during the construction and operations phases of the Project, and the extent to which these chemicals are likely to enter Squaw Creek. These chemicals may include, but are not limited to, pesticides and fertilizers. Because such substances are regularly used for similar types of projects, it is foreseeable that they will be used for this Project. To be legally adequate, a project description must include all reasonably foreseeable activities associated with

the project. (Laurel Heights Improvement Ass'n v Regents of Univ. of Cal. (1988) 47 C3d 376). At the very least, it is reasonably foreseeable that the Project will rely on the use of some of these chemicals to install and maintain landscaping features of the Project. An adequate DEIR would include a description of these expected chemical uses, or explain alternative methods that the Project may plan to use in lieu of these chemicals. In addition to disclosing the chemicals that the Applicant intends to use, the DEIR must include an analysis of the potential environmental effects of this usage, as well as methods to minimize and mitigate these impacts. The Applicant must consider the potential for these chemicals to enter Squaw Creek as runoff and analyze the significant environmental impacts that may result from this runoff. O1-14 cont.

Additionally, Applicant plans on storing snow from plowing and other snow-removal activities on-site. (DEIR at 13-80.) Plowed snow often contains a number of pollutants picked up from the roadways including vehicle fluids, sediments, and trash. The DEIR accurately identifies the significant environmental impact that is posed by high volumes of chemicals and sediments entering Squaw Creek when this stored snow melts. (Id.) Nevertheless, the DEIR does not fully explain how it will sufficiently minimize and mitigate this potentially toxic impact to Squaw Creek. There are two proposed alternative solutions for pollution from snowmelt and runoff, but each are described extremely briefly. (Id. at 13-84.) These alternatives include "water quality treatment features" and "water quality treatment facilities," but there are no details provided about those features or facilities, and no analysis provided about their effectiveness in treating the melt water before it enters Squaw Creek. (DEIR at 13-80.) The Applicant's failure to provide detail about these mitigation measures, and to choose the best measure, is inadequate under CEQA. (CEQA Guidelines § 15126.4(a)(1)). When alternative measures are available to mitigate an impact, each must be discussed and the reasoning for choosing a particular measure must be described. (CEQA Guidelines § 15126.4(a)(1)(B). The evaluation and choice of mitigation measures cannot be deferred to a later time. (Id.) O1-15

Additionally, the DEIR claims that the Applicant's commitment to using snow storage "best management practices" ("BMPs") would also help to mitigate the impact of pollution from melted stored snow. (DEIR at 13-84.) However, these BMPs are not described, but are simply assumed to be sufficient mitigation techniques. The DEIR's reliance on BMPs as it is currently stated in the DEIR violates CEQA requirements because they do not commit the Applicant to any specific conduct or provide the public with adequate information upon which to base a recommendation. (CEQA Guidelines § 15126.5(a)(2); Cal. Pub. Res. Code § 21002, 21003.) The DEIR should be revised to clarify what mitigation is required under its BMPs mitigation for water quality. (DEIR 2-26; 4.2-118.) If the Applicant has specific management practices in mind, the Applicant should list and compel them, or else this proposed mitigation is invalid. (CEQA Guidelines § 15126.5(a)(2).)

Such a cursory discussion of mitigation measures to protect water quality does not provide the public or decision-makers with sufficient information to analyze the sufficiency of the proposed mitigation. Furthermore, delaying the decision of which alternative to implement is impermissible to the extent that it defers the DEIR's mitigation analysis and decisions until after the conclusion of the EIR process. (CEQA Guidelines § 15126.4(a)(2); Clover Valley Foundation v. City of Rocklin, 197 Cal. App. 4th 200, 236 (Cal. App. 3d Dist. 2011).) In choosing not to fully analyze these potential impacts to water quality, the DEIR fundamentally fails to provide the public and decision-makers with requisite information upon which to base recommendations. (CEQA Guidelines § 15126.5(a)(2); Cal. Pub. Res. Code § 21002, 21003.) O1-15 cont.

III. The DEIR's Evaluation of the Impact on Biological Resources is Incomplete and Insufficient

A. The DEIR fails to establish an accurate baseline for Sierra Nevada yellow-legged frog

An EIR must accurately identify the significant impacts would result from a proposed project. (CEQA Guidelines § 15126.2(b).) An EIR must determine significance in relation to an analysis of the physical conditions in the project area as they exist at the time of the notice of preparation. (CEQA Guidelines § 15125(a) & (e); "[T]he significance of a project's impacts can be ascertained only if the agency first establishes the physical conditions against which those impacts are to be measured." (Michael H. Remy, et al., Guide to the California Environmental Quality Act 198 (11th ed., Solano Press 2007).) CEQA then requires the Applicant to compare "what will happen if the project is built with what will happen if the site is left alone." (Woodward Park, supra, 150 Cal.App.4th, at 687.) O1-16

The DEIR fails to establish an accurate baseline for the Sierra Nevada yellow-legged frog ("SNYLF"). The SNYLF is listed as endangered under the federal Endangered Species Act ("ESA"). (Endangered and Threatened Wildlife and Plants; Endangered Species Status for Sierra Nevada Yellow-Legged Frog and Northern Distinct Population Segment of the Mountain Yellow-Legged Frog, and Threatened Species Status for Yosemite Toad; Final Rule, 79 Fed. Reg. 24,256 (Apr. 29 2014); DEIR.) As is discussed in the DEIR itself, a significant portion of the project site lies within the boundaries of the Five Lakes Subunit (also referred to as Subunit 2D) proposed by the U.S. Fish and Wildlife Service ("FWS") to become designated critical habitat of the SNYLF. (Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Sierra Nevada Yellow-Legged Frog, the Northern Distinct Population Segment of the Mountain Yellow-Legged Frog, and the Yosemite Toad; Proposed Rule, 78 Fed. Reg. 24,516 (Apr. 25, 2013); DEIR.) The proposed critical habitat encompasses the majority of the western parcel of the project site. (Id.)

The DEIR does not include any reliable information about whether or not SNYLF are currently present on the Project site. Rather, the DEIR claims that undergoing a survey for SNYLF is part of a mitigation measure. (DEIR at 6-53.) Given the nature of amphibian life cycles and distribution habits, especially during a drought, a rigorous, multi-year survey should be conducted using extremely rigorous techniques as part of the DEIR process. (Cite?) Currently, FWS is developing a specific survey protocol for SNYLF. (Survey Protocols and Other Guidelines, U.S. Fish and Wildlife Service, Sacramento Fish & Wildlife Office (May 14, 2015; accessed July 9, 2015), https://www.fws.gov/sacramento/es/Survey-Protocols-Guidelines/es_survey.htm.) Lacking reliable information about SNYLF presence on the Project site, it is impossible for the public or decision-makers to assess the impacts of the Project on the species and determine if the proposed mitigation measures are appropriate or sufficient to protect the endangered frog and its critical habitat. Applicants should engage in a new SNYLF survey using the forthcoming FWS survey protocol before the completion of the EIR process. O1-16 cont.

By failing to offer an analysis of current SNYLF presence and habitat suitability, the DEIR fails to provide the correct baseline information that would allow the public or decision-makers to evaluate significant adverse impacts the Plan will have on the environment, in violation of CEQA. (CEQA Guidelines § 15125(a); CBE SCAQMD, 48 Cal.App.4th, at 315.) A valid baseline should accurately depict the "physical conditions in the project area as they exist at the time of the [DEIR]." (CEQA Guidelines § 15125(a) & (e).) Because the DEIR fails to provide this baseline, neither it nor the interested public could compare "what will happen if the project is built with what will if the site is left alone." (Woodward Park, supra, 150 Cal.App.4th, at 687.)

B. The Project will significantly degrade proposed critical habitat for the Sierra Nevada yellow-legged frog

The Project will significantly increase the threats to the Sierra Nevada yellow-legged frog within the Five Lakes Subunit of proposed critical habitat. FWS identifies the threats present within the Subunit as "Fish Presence, Timber Harvest, [and] Recreation." (79 Fed. Reg. 24,256.) In spite of the current levels of these threats, FWS still proposed protecting a significant portion of the Project site as critical habitat for the SNYLF. (Id.) Thus the portion of the Project site within the SNYLF's proposed critical habitat is an area that the FWS identifies as "essential for the conservation of the species." (16 U.S.C. § 1532(5)(A).) Rather than working to minimize and mitigate impacts to this important habitat, the Project proposes to intensify two of the FWS's identified threats to SNYLF within the Five Lakes Subunit, and fails to thoroughly discuss the impacts of these changes on SNYLF or its proposed critical habitat. O1-17

In discussing the Project's proposed alterations to the physical attributes of Squaw Creek, the DEIR concludes that no mitigation is necessary (beyond assuring the proper implementation of the proposed alterations) because the proposed alterations will create better habitat for trout

within the creek and therefore the alterations are a beneficial impact of the Project. (DEIR at 13-76.) However, elsewhere within the DEIR, the Applicant admits that these trout are invasive species. (DEIR at 6-14.) Furthermore, the DEIR acknowledges that the invasive trout are such efficient predators of SNYLF that it relies on the trout's presence to support its assertion that SNYLF are not breeding in the Project area. (DEIR at 6-51.) (While we agree that fish presence is a serious threat to establishing healthy SNYLF populations, we still believe that it is necessary to undergo a thorough survey as discussed above to determine whether SNYLF are still utilizing the site in some way, in spite of the fish presence.)

The trout found in Squaw Creek are not native, but rather are present because of a century of intentional fish stocking intended to provide recreational fishermen with more opportunities to fish in High Sierra lakes and streams. In recent years, this stocking has been curtailed, due in large part to overwhelming evidence of the immense environmental harms caused by this stocking and litigation brought by the Center against the California Department of Fish and Wildlife. (See Center for Biological Diversity v. Department of Fish and Wildlife (2015) 234 Cal.App.4th 214, 230.) State policy now acknowledges that the continued presence of these fish in high elevation lakes and streams is a threat to a native species and that non-native trout should only be stocked in locations where they will not have a negative impact on native species. (Final Hatchery and Stocking Program Environmental Impact Report (EIR) / Environmental Impact Statement (EIS), California Department of Fish and Wildlife, (January 2010, accessed July 9, 2015).) O1-17 cont.

Applicant claims that the Project's proposed alterations to Squaw Creek, including removing barriers to fish passage and the resulting increase in fish presence, is beneficial to SNYLF. (DEIR at 6-52.) This claim rests on the assumption that SNYLF will benefit from a more naturalistic channel construction. However, this contradicts what the FWS has said about SNYLF habitat. In identifying SNYLF's critical habitat, FWS analyzed the greatest threats to the species, which they deemed to include fish presence, but does not mention stream channelization. (78 Fed. Reg. 24,516.) In fact, FWS believes that fish presence is such a threat to SNYLF, that they suggest the *installation* of fish barriers as a management practice that could greatly benefit SNYLF populations. (Id. at 24,523.) FWS goes on to say that the invasive fish "could prevent or preclude recolonization of otherwise available breeding or overwintering habitats, which is necessary for range expansion and recovery of Sierra Nevada yellow-legged frog." (Id. at 24,540.) Because it contradicts the current scientific consensus and stated governmental policy, the Applicant must provide a more thorough explanation and analysis of how removing fish barriers and strengthening fish populations in Squaw Creek will benefit the SNYLF. (Id. & EIR/EIS.)

Additionally, the Project anticipates greater use of the Project site for recreation. (See a more thorough discussion of increased utilization as a result of the Project below in Section IV.) This would exacerbate another key threat to SNYLF identified by FWS in the Five Lakes Subunit. Recreational activities, including skiing, are a known threat within this portion of the proposed critical habitat. (78 Fed. Reg. at 24,528.) The DEIR fails to mention that any increased recreational use of land within the Subunit would amount to increasing a known threat to an endangered species within its proposed critical habitat. (See DEIR.)

The DEIR fails to explicitly address numerous negative impacts to proposed SNYLF critical habitat, including increased invasive fish presence and increased recreation on the Project site. It also fails to justify its claim that creating better habitat for these invasive fish will result in an environmental benefit for the Project site. In doing so, the DEIR completely and improperly omits addressing significant environmental effects that may result from the implementation of the Project. (CEQA Guidelines §§ 15126.2(a) and 15128; Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 399 (CEQA requires an EIR to "'attempt in good faith to . . . provide sufficient meaningful information regarding the types of activity and environmental effects that are reasonably foreseeable.").) It is reasonably foreseeable that these projected impacts will indeed cause harm to SNYLF and the native ecosystem as a whole. The DEIR's failure to adequately discuss these impacts is therefore in violation of Section 15126.2 of CEQA. **O1-17 cont.**

C. The Project does not adequately mitigate its impacts on the Sierra Nevada yellow-legged frog or on the proposed critical habitat

The DEIR must include the full range of potentially significant impacts, as well as reasonably prudent avoidance, minimization, and mitigation measures in the EIR to comply with California Environmental Quality Act's ("CEQA") information disclosure requirements. (Cal. Pub. Res. Code § 21000 et seq.) CEQA requires the Applicant to "mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." (Pub. Res. Code § 21002.1(b).) Mitigation of a project's significant impacts is one of the "most important" functions of CEQA. (*Sierra Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41 (1990).) Importantly, mitigation measures must be "fully enforceable through permit conditions, agreements, or other measures" so "that feasible mitigation measures will actually be implemented as a condition of development." (*Federation of Hillside & Canyon Ass'ns v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1261.) **O1-18**

It is the "policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which will avoid or substantially lessen the significant environmental effects of such projects." (Pub. Res. Code § 21002.) Under CEQA, "[e]conomic unfeasibility is not measured by increased cost or lost profit, but upon whether the effect of the proposed mitigation is such that the project is rendered impractical."

(*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 600 (internal citation omitted).) Even where an EIR includes some actual discussion of economic infeasibility, it must still be sufficient "to allow informed decision-making." (*Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal.App.4th 866, 884.)

Because the Applicant failed to properly assess the impacts of the Project's streambed reengineering on the SNYLF, it failed to create measures to mitigate those harms to the SNYLF. The applicant must revise the DEIR to include a scientifically-based analysis and discussion of the impacts of its proposed stream work on the SNYLF, as well as mitigation measures that it will use to minimize the project's significant impacts on the SNYLF and its proposed critical habitat. The DEIR includes a discussion of mitigation measures that will be used to avoid impact to the SNYLF during the construction process, but none that aim to offset the continuing harm the Project will cause, through an increase in invasive fish presence and an increase in recreational use of the site. (See generally DEIR.)

The Applicant neglected to propose a mitigation scheme specific to SNYLF that analyzed or would directly address the project's harm or the cumulative harm to the endangered SNYLF or its critical habitat.

In its designation of the Five Lakes Subunit of critical habitat, FWS explicitly expressed special concern about the impacts of fish presence and recreational activity within the subunit on the SNYLF. (78 Fed. Reg. at 24,531.) However, nothing in the DEIR addresses the need to mitigate the long-term impacts of these threats to SNYLF and its critical habitat on the project site. Instead, as discussed above, the Project exacerbates both of these threats and provides no mitigation whatsoever. Because it fails to propose mitigation measures for these increased threats, the DEIR fails to reduce Project impacts to SNYLF to less than significant, as required under CEQA. (Pub. Res. Code §§ 21002, 21002.1(b), 21081(a); 14 Cal Code Regs. §§ 15002(a)(3), 15021(a)(2), 15091(a)(1).)

O1-18 cont.

Given the grave threat to SNYLF that is posed by the continued existence of fish in Squaw Creek, and the admission that the Project will likely result in a stronger population of these fish, Applicants should create a mitigation plan for this impact. One potential mitigation measure that should be analyzed is the potential for permanently removing invasive fish from Squaw Creek. It is conceivable that using proven methods and technologies, the fish present in Squaw Creek could be removed and a fish barrier could be constructed to prevent their return. However, the DEIR does not discuss this possible mitigation measure or its ability to minimize the Project's impacts on SNYLF.

Another mitigation measure that Applicant should analyze is to set enforceable minimum water levels in Squaw Creek, to ensure that water depletions resulting from the Project do not have a greater-than-anticipated effect on the environment. These levels could be set in terms of

either stream flow volume or stream depth, and it would be valuable to assess how using either metric may impact the environment, as some species may require a certain degree of water flow and others may not. Creating an enforceable commitment to maintaining water in Squaw Creek would minimize some of the impacts of the Project.

Applicant should also consider other mitigation measures such as committing to greater and enforceable protections (or improvements) to other areas of SNYLF habitat. Applicant owns other portions of the Five Lakes Subunit and could undertake actions in that area that would better support SNYLF populations in that area. This could potentially serve as a component of mitigation for the impacts of the Project. Applicant could also mitigate the impacts of the Project by acquiring additional SNYLF habitat protected by conservation easements, purchasing mitigation credits, or contributing financially to the rehabilitation of SNYLF habitat elsewhere in its range. O1-18 cont.

D. The DEIR did not discuss mountain lion presence or require mitigation for this species

Mountain lions are a "specially protected mammal" in California. (Fish & Game Code § 4800(a).) "It is unlawful to take, injure, possess, transport, import, or sell any mountain lion or any part or product thereof." (*Id.* § 4800(b)(1).)

The DEIR admits that the Project lies within the range of the Loyalton-Truckee Deer Herd. (See e.g., DEIR at 6-14, 6-27, etc.) Mountain lions are known to prefer rocky and mountainous areas, such as the areas in and around the Project site, and are particularly fond of areas that support populations of deer. (California Cougars, U.S. Department of the Interior, Bureau of Land Management (Apr. 26, 2007; accessed July 9, 2015), http://www.blm.gov/ca/st/en/prog/wildlife/cougar.html.) Nevertheless, the DEIR does not mention the potential impacts of the Project on mountain lions. (See generally, DEIR.) O1-19

By not discussing the presence of mountain lions at the Project site in the DEIR, the DEIR failed to create an accurate baseline for this species, as required by CEQA. (CEQA Guidelines § 15125(a) & (e).) The DEIR should have discussed potential impacts to and suggested mitigation for this species. CEQA's requirements help ensure that the public and decision-makers that are reviewing and deciding on the Project know the full scope of the project and its impacts. Environmental review that fails to provide these details undermines the fundamental requirement of public disclosure in CEQA. (*County of Inyo*, *supra*, 71 Cal.App.3d 185.)

Examples of impacts the DEIR should have considered are: (1) the effects of rodenticides on mountain lions, (2) the potential destruction or degradation of mountain lion habitat and corridors, (3) the potential for increased vehicle strikes.

Mountain lions prefer to avoid being near humans, and increased human presence can cause cougars to avoid large portions of their previous habitat. (*See* Fred G. Van Dyke et al., *Reactions of Mountain Lions to Logging and Human Activity*, 50 J.WILDLIFE MANAGEMENT 95 (1986).) Because these big cats are "shy," increasing human presence in the Project area can have a large impact on the mountain lion that will be felt well beyond the acres developed in the Specific Plan. (*Id.*)

Furthermore, the DEIR should have discussed the effects of rodenticide bioaccumulation and prohibited its use at Squaw Valley. Research has shown that mountain lions can be poisoned or bleed out after directly ingesting or eating smaller mammals that have been poisoned with rodenticides. (Seth D. Riley et al., *Anticoagulant Exposure and Notoedric Mange in Bobcats and Mountain Lions in Urban Southern California*, 71 Wildlife Management 1874 (2007); Mourad W. Gabriel et al., *Anticoagulant Rodenticides on Our Public and Community Lands: Spatial Distribution of Exposure and Poisoning of a Rare Forest Carnivore*, 7 PLoS ONE 1 (2012).) O1-19 cont.

The DEIR's biological resources baseline is invalid because it provided no information or discussion of mountain lions. (Michael H. Remy et al., supra, at 198; CEQA Guidelines § 15125(a) & (e); Woodward Park, supra, 150 Cal.App.4th, at 687.) Completely ignoring this species in the DEIR fundamentally fails to provide the public and decision-makers with requisite information upon which to base recommendations. (CEQA Guidelines § 15126.5(a)(2); Cal. Pub. Res. Code § 21002, 21003.)

E. The DEIR fails to provide an adequate baseline for all federally listed species that may be affected by the Project

While the DEIR includes a discussion of some species that may be affected by the Project, no individualized species list was requested from FWS. (DEIR at 6-16, 6-17) The DEIR instead relies on an FWS website that according to its own references section was last updated in 2011, making the data now nearly five years out-of-date. Over the course of five years there can be significant changes in listings under the ESA, as well as species distribution and scientists' understanding of a species' life history and requirements. There have also been a number of California species that have been newly-listed in the last five years that would not be reflected in the list relied upon by the DEIR. Additionally, the website that the DEIR relies upon is not accessible from the hyperlink that is included in their references section, making it impossible for a reader to verify that the list as presented in the DEIR reflects even that outdated information. The DEIR should rely upon the most current information available. References cited in the DEIR should be accessible to the public and to decision-makers in order to allow readers to review and consider the information that the DEIR relies upon. O1-20

The Project will be required to obtain a Clean Water Act permit from the USACE for alterations to Squaw Creek and other affected waters of the United States. In that process, the USACE will be required to obtain a list of species listed under the Endangered Species Act that may be affected by the Project from the FWS and it will be required to consult with the FWS to determine whether the project is likely to adversely affect any of those species. (16 U.S.C. § 1536(a)(2).) As the production of such a list will be necessary for the completion of the Project, this should be done as part of the EIR process in order to allow the public and decision-makers to fully assess the impact the Project will have on federally listed species. O1-20 cont.

The DEIR's biological resources baseline is invalid because it did not provide a thorough, accurate, up-to-date list of species that could potentially be affected by the Project. (Remy et al., supra, at 198; CEQA Guidelines § 15125(a) & (e); Woodward Park, supra, 150 Cal.App.4th, at 687.) Utilizing an inaccurate or out-of-date list of species in the DEIR fundamentally fails to provide the public and decision-makers with requisite information upon which to base recommendations. (CEQA Guidelines § 15126.5(a)(2); Cal. Pub. Res. Code § 21002, 21003.)

IV. The DEIR Fails to Provide an Accurate Assessment of the Project's Impact on Greenhouse Gas Emissions

A. The DEIR uses inconsistent data regarding projected vehicle use in and around the Project and thereby underestimates greenhouse gas emissions attributable to the Project

The DEIR includes significant discussion of transportation infrastructure, traffic flow, and related issues, including the greenhouse gas emissions associated with the Project's anticipated transportation needs. However, the DEIR does not use consistent data or assumptions to discuss these issues, particularly when discussing the number of vehicles that will be accessing the final Project site, and the impact of greater traffic congestion on greenhouse gas emissions. O1-21

When discussing the site's need for more transportation infrastructure, the Applicant concluded that the Project would create a demand for an additional 1,263 visitor parking spaces and 183 additional employee parking spaces. (DEIR at 9-7.) As a result, the Project proposes increasing the total parking availability at the Project site to 5,110 spaces. (Id.) Additionally, the DEIR claims that the increased traffic that will result from the greater number of vehicles attempting to access the Project site will yield such a large increase in traffic congestion and vehicle queuing problems that the impacts on local roadways would be "significant and unavoidable." (DEIR at 9-59 & 9-63.) These examples strongly indicate that the Applicant believes that there will be an increase in the number of vehicles accessing the Project site and that the average drive time required for each of those vehicles to reach the Project site will also increase.

However, when the DEIR undertook an analysis of the impact of the Project on greenhouse gas (GHG) emissions, the assumptions used for modeling emissions from vehicles are not in keeping with those discussed above. Rather than calculating the emissions impact by taking into account a greater number of annual vehicle trips as a result of the Project, the GHG emissions model assumed that the total number of annual vehicle trips would be the same before and after completion of the Project. (DEIR at Appendix H.) There also was no apparent consideration of additional GHG emissions resulting from increased traffic congestion or vehicle queuing. (Id.)

O1-21 cont.

The DEIR's various discussions of the Project's impact on vehicles are inconsistent and make it nearly impossible for the public and decision-makers to fully assess the environmental impact of the Project. In this respect, the DEIR fails to inform decision-makers and the public of the true scope of the Project from which all interested parties could assess the direct and indirect environmental effects of the Project. (City of Santee, 214 Cal.App.3d, at 1454-55; San Joaquin Raptor, 149 Cal.App.4th, at 655; Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 83-86.)

B. The DEIR does not sufficiently commit the Project to maintaining current greenhouse gas mitigation measures or to implement new mitigation measures

The DEIR discusses and seems to rely upon greenhouse gas emissions reductions procedures that it utilizes in current operations on the site as part of the baseline analysis. (DEIR at 16-3) Additionally, the DEIR suggests some additional reduction procedures that are being contemplated by the Applicant. (Id.) However, such measures, whether currently in practice or only proposed, must be clearly described and analyzed to provide the public and decision-makers the information needed for an informed understanding of the environmental impact of the Project. If these measures are intended to form part of the GHG baseline analysis, then the Applicant must commit to continuing these programs into the future. If they are intended to be part of the mitigation efforts associated with the Project, then they must be "fully enforceable through permit conditions, agreements, or other measures" so "that feasible mitigation measures will actually be implemented as a condition of development." (Federation of Hillside & Canyon Ass'ns v. City of Los Angeles (2000) 83 Cal.App.4th 1252, 1261.)

O1-22

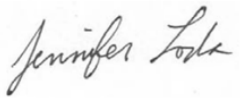
Conclusion

Thank you for the opportunity to submit comments on this proposed Project. We look forward to working to ensure that the Project and environmental review conforms to the requirements of state law and to make certain that all significant impacts to the environment are fully analyzed, mitigated or avoided. In light of many significant, unavoidable environmental impacts that will result from the Project, we strongly urge you to deny this Project in its current

O1-23

form. At a minimum, the DEIR must be revised and recirculated to address its deficiencies under CEQA. Please do not hesitate to contact the Center with any questions at the number listed below. We look forward to reviewing the Applicant's responses to these comments in the Final EIR for this Project once it has been completed. O1-23 cont.

Sincerely,



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Center for Biological Diversity
Jennifer Loda, Staff Attorney
July 17, 2015

O1-1 The comment is an introductory statement and does not address any specific content, analysis, or conclusions in the DEIR. Therefore, a response is not provided or required here. See responses to the detailed comments, focused primarily on water resources, biological resources, and greenhouse gas emissions provided below.

O1-2 The comment provides a summary of a portion of the detailed comments regarding water supply provided later in the letter. See responses to comments O1-3 through O1-12.

O1-3 The comment quotes various CEQA cases and claims the DEIR's project description is incomplete because it is unclear where the project intends to acquire water for project operations, how much water will be extracted from these sources, and how those extractions will affect the sources. The commenter's opinion is noted. The comment does not provide any specifics regarding the alleged DEIR deficiencies, but acts as an introduction to the more detailed comments that follow. See responses to the detailed comments below.

O1-4 The text from page 5-3 of the WSA quoted in the comment is incomplete and taken out of context. The complete paragraph from which the commenter selected excerpts reads as follows, with the text selected by the commenter in bold:

> The SVPSD and SVMWC have active horizontal wells that draw from fractures in the hillsides above Olympic Valley to both the north and the south, as shown on Figure 5-1. These wells **are located in fractured bedrock, and not the alluvial Olympic Valley Groundwater Basin**. Horizontal wells are not equipped with pumps. Instead, water that enters the well is drained out of the opening by gravity. Therefore, the quantity of water produced by a horizontal well is generally considered constant from year to year, unless the capacity of the fractures connected to the well is reduced. The SVPSD and SVMWC horizontal wells have not experienced reductions in supply capacity resulting from hydrologic conditions in the past. Currently, an average of 70 AFY of municipal supply is met from these horizontal bedrock wells located outside of the Basin (Table 5-2). The volumes produced from these wells are included in this report because they **will continue to be a source of supply** used to meet a small portion of the existing demand, which will continue to be served at the current average volume from this existing source in the future. However, this WSA assumes that all Project demand and non-project future demands will be met with water produced from the Olympic Valley Basin, and not from the bedrock water supply.

As stated at the end of this paragraph, the water from horizontal bedrock wells would be a continued source of supply for existing demand, and not a supply source for the proposed project. The last sentence is consistent with the text from page 5-1 of the WSA quoted by the commenter indicating that project water would be provided by the groundwater from the Olympic Valley Basin. The WSA and DEIR project description are consistent and reflect a stable and finite project description as required by CEQA.

O1-5 See response to comment O1-4.

O1-6 The text cited by the commenter from page 14-3 of the DEIR is part of the description of the existing environmental setting. The entire paragraph from which the excerpt is taken reads as follows, with the text quoted by the commenter in bold:

> Almost all domestic, municipal, and non-potable water used in the Olympic Valley is derived from local groundwater sources, primarily from the alluvial valley fill, along with a minor amount from fractured bedrock (HydroMetrics 2007). An exception is **a small amount of surface water collected in ponds** and used for snowmaking. The alluvial groundwater source is the Basin, designated by the Department of Water Resources (DWR) as Groundwater Basin Number 6-108 (DWR 2006).

This paragraph generally describes the existing conditions in Olympic Valley relative to water supply sources. As stated in response to comment O1-4 above, the proposed project does not propose to use surface water as a water source. Therefore, there is no nexus between the existing ponds and water supply for the project. Additional detail on existing water sources is provided on the remainder of the page.

Regarding the question as to whether ponds that provide snowmaking water would qualify as "waters of the United States," the snowmaking ponds are outside of the VSVSP plan area, and would be unaffected by project activities. Therefore, these ponds have not been (and do not need to be) evaluated for qualification as waters of the United States.

All potential waters of the United States that could be affected by the project were described and analyzed in Chapter 6, "Biological Resources," and Chapter 13, "Hydrology and Water Quality," of the DEIR. As described in Chapter 6, two small, man-made detention ponds are located within the project area (see page 6-10 and Appendix E2 of the DEIR). As shown in Exhibit 1 of 7 in Appendix E2, the detention pond labeled DP-1 is an excavated depression just south of the parking lot immediately west of the Olympic Village Inn. As shown in Exhibit 2 of 7 in Appendix E2, the detention pond labeled DP-2 is Searchlight Pond. Searchlight pond is included as part of the project site because the storm drainage system included as part of the proposed project would include a new drain for Searchlight Pond (see Exhibit 3-13 of the DEIR and the discussion of the Searchlight Pond overflow on page 13-76). Together, these ponds account for roughly 0.10 acre of potential waters of the United States (see Section 6.1.7, "Waters of the United States," and Table 6-4 on pages 6-25 through 6-27 of the DEIR). Specifically, Searchlight Pond and Cushing Pond are located upstream of the Plan Area (see Table 13-3 on page 13-9 and Exhibit 13-11 of the DEIR) (although as just stated, a portion of Searchlight Pond is included in the project site) and convey mountain runoff into the Plan Area (DEIR pages 13-9 and 13-10). Searchlight Pond also stores water for snowmaking. Based on the evaluation in Chapter 13, these detention ponds would not be directly affected by implementation of the VSVSP, other than the improved drainage infrastructure provided for Searchlight Pond. All other detention ponds (including those used for snowmaking) were considered outside of the project area or not potentially affected by the project, and were not surveyed or delineated.

O1-7 Snowmaking is an ongoing activity undertaken by the existing Squaw Valley Resort and Resort at Squaw Creek and is therefore not related to the proposed project and would not increase because of the proposed project. Snowmaking, therefore, was not analyzed in the EIR as part of the reasonably foreseeable direct impacts of the proposed project. The WSA (DEIR Appendix C, page 4-4) and hence the EIR do, however, estimate future water use from snowmaking in order to evaluate the effects on groundwater of total cumulative water demand in future year scenarios. As explained in the Master Response to comments on water supply, the Final EIR includes additional information and revised assumptions to reflect more recent water data and potential future increases in snowmaking water use. (See also response to comment 08a-4a.) Specifically, the WSA Update and FEIR used an updated version of the groundwater model with an extended time period through the end of 2014. The analysis in the WSA Update shows sufficient supply to meet the project and non-project future water demands (including snowmaking) during normal, dry, and multiple dry years.

The water sources for snow making are several surface water impoundments (as identified in the DEIR text quoted in response to comment O1-6) and fractured bedrock wells. As indicated in the DEIR on page 14-3 (the page where the quote identified by the commenter is located, not on page 4-31 as indicated in the comment), there is a possibility that snowmaking water sources could be used to provide some irrigation water in the future. The availability of groundwater for irrigation and the potential future use of snowmaking water for this purpose are addressed in further detail in the portion of the water supply Master Response that addresses irrigation.

O1-8 See response to comment O1-7 regarding water supply needs associated with snowmaking. Snowmaking is not part of the proposed project, but was considered as part of the cumulative water supply impacts analysis, including in the revised WSA Update and FEIR based on responses to comments.

As indicated by the commenter, the applicant has stated that the volume of water used for snowmaking would be consistent with historical volumes. The average historical volume was derived from the WSA (DEIR Appendix C) and is presented in Table 14-3 on page 14-6 of Chapter 14, "Public Services and Utilities," in the DEIR. For the purpose of the analysis, snowmaking demand was based on a multi-year average that was inflated to provide a conservative estimate. Using this assumption, no additional cumulative impacts (beyond what would occur under the project scenario) would result from cumulative development (see Impact 18-38 on pages 18-42 through 18-45), so additional mitigation would not be needed.

Assumptions regarding water demand and climate change are discussed in the water supply Master Response.

O1-9 The comment references a technical memorandum and its conclusions as prepared by Tom Meyers. This technical memorandum is included as comment letter O8a in this FEIR. See responses to letter O8a in regards to Mr. Meyers' analysis of the DEIR and WSA. Also see the Master Response regarding water supply for further information on the WSA, including the 2015 WSA update and further groundwater modeling runs.

O1-10 See the Master Response regarding water supply for information on updates to the WSA and groundwater modeling, prepared in response to comments on the DEIR and included as part of the FEIR. The last paragraph of the comment references the enactment of "new water regulations" but does not identify what regulations are being referred to. If the commenter is referring to the suite of groundwater legislation passed in 2014, these laws apply to groundwater basins designated as high or medium priority by DWR. The Olympic Valley Groundwater Basin is not designated as high or medium priority; therefore, the 2014 groundwater legislation does not apply and it is not reasonably foreseeable that the regulations would alter the Applicant's ability to either install or use wells as considered in the EIR. (See http://www.water.ca.gov/groundwater/casgem/basin_prioritization.cfm [Olympic Valley aquifer, subbasin ID #6-108, characterized as "very low" priority].)

O1-11 See the portion of the water supply Master Response that addresses climate change. The comment states that page 16-22 of the DEIR does not discuss the potential of reduced snowfall as a result of climate change. Page 16-22 is a blank page in the DEIR. Impact 16-3 (Impacts of climate change on the project), is located on pages 16-20 and 16-21 of the DEIR and specifically addresses how changes in precipitation (i.e., rain versus snow, with more precipitation as rain being an outcome of reduced snowfall) and changes in snowmelt patterns may affect runoff and avalanche risk.

O1-12 The comment states that the DEIR does not include enforceable commitments to water conservation measures as mitigation of impacts to water supply, implying that a significant impact on water supply would, in the commenter's opinion, result and thereby trigger the

requirement for mitigation. This comment appears to misinterpret the discussion in the DEIR. The comment refers specifically to page 14-31 of the DEIR; that page describes the methodology used to determine water demand, which is highly conservative (e.g., assumes full operation of the Mountain Adventure Camp at all times and that demand would be the same per lodging unit as the historic per unit demand in Squaw Valley for the same uses, despite the fact that current building codes require extensive water conservation measures including low flow toilets, low-flow faucets, etc.). The analysis states specifically that *no conservation was assumed*, including new building codes or local ordinances, any reductions that would occur during droughts, and any reductions that would result from the Squaw Valley Public Service District (SVPSD) tiered pricing structure that encourages low water use.

The comment also refers to page 14-35 of the DEIR, which includes three mitigation measures to address a potentially significant impact related to well field configuration and potential well interference: a requirement to obtain a water supply verification letter from the SVPSD (or other water supplier, as applicable) prior to construction of water supply improvements; a requirement to obtain a will-serve letter from the SVPSD prior to approval of a water system improvement plan; and a measure that assures the well field will be configured and operated consistent with the performance modeled in the WSA. This last measure, which is cross-referenced to Mitigation Measure 13-4 (DEIR pages 13-63 through13-65), requires that the well field be designed, operated, and monitored so that it meets specified performance criteria (e.g., does not fall below 65 percent saturation thickness or higher for more than three consecutive months) and includes a variety of other performance criteria and corrective measures if those criteria are not met. These performance criteria were demonstrated in the WSA to provide for adequate water for existing uses, the project, and future growth over the next 25 years. Further, these performance criteria would be monitored and are enforceable. The comment does not specifically address the assumptions used in determining water demand (highly conservative), and why the impact analysis and measures to mitigate identified significant impacts are considered "deferred." Rather, the comment is general and not specific to the analysis in the EIR. The impact analysis specifically addresses all expected impacts, and includes measures that would demonstrably mitigate those impacts.

01-13 See responses to comments 08b-3, 08b-10, and 08b-13 concerning the accuracy of the DEIR analysis on water quality and the alleged need to first obtain a verified delineation under the Clean Water Act. (See also *Habitat and Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277 [EIR was not invalid due to lack of formal, Corps-approved wetland delineations within project area; wetland delineation was appropriately deferred to project-level environmental review for future individual projects].)

01-14 The comment asserts that the DEIR does not adequately analyze and disclose the type and volume of pollutants that will be used on the project site and could potentially enter Squaw Creek and other surface waters. The comment only references text from DEIR Chapter 13, "Hydrology and Water Quality." The comment states that the issue of potential project related sediment loading is not fully analyzed, but gives no specific information or any substantial evidence to support the perceived inadequacy. This potential effect was considered in Chapter 13. No further response on this matter can be provided. The comment also neglects to identify that other water quality constituents are addressed in Chapter 13, such as the constituent loading for "Nitrate-N" and "Total Phosphorous" shown in Table 13-15. In multiple locations in Chapter 13, a water quality report from Balance Hydrologics is cited as a source of information supporting the water quality impact analysis (Balance Hydrologics 2013). This report, titled *Squaw Valley Water Quality Investigation Report, Drainage Area of Squaw Creek at the Confluence of the Main Stem and the Olympic Channel*, provides further information and evidence on other water quality constituents and is available on the County's website as part of the background materials for the EIR

(http://www.placer.ca.gov/departments/communitydevelopment/envcoordsvcs/eir/villageatsquawvalley/draft%20eir).

Hazardous materials potentially used during project construction and operation and that could potentially become water pollutants are addressed in DEIR Chapter 15, "Hazardous Materials and Hazards." See the following excerpt from the discussion of Impact 15-1 (Use of hazardous materials):

> Hazardous materials would be stored, used, and transported in varying amounts during construction and long-term operation of the proposed project. Construction activities would primarily involve the storage, use, and transport of various household products such as paints, solvents, glues, and cements. Petroleum hydrocarbon products such as gasoline, diesel, and lubricants would be used in heavy equipment and construction vehicles. During construction, temporary storage and use of hazardous substances would comply with regulations and requirements of the SVFD and Placer County Environmental Health Services (EHS), and spill prevention practices would be used.
>
> Operation of the proposed project would involve resort residential, commercial, and recreational uses. Hazardous materials that would be stored, used, and transported to the project site to support those long-term uses would include commercial and household-type maintenance products such as cleaning agents and degreasers, paints, and pesticides and herbicides; chemicals used for maintaining proper pool and hot tub water conditions; propane and liquefied natural gas for heating; and diesel for emergency backup generators. In addition, commercial uses associated with project operation could include facilities and/or activities that could use and routinely transport hazardous materials on and off the project site.

The potential for adverse release of these materials is assessed in the full discussion of Impact 15-1 beginning on page 15-15 of the DEIR and the impact is identified as less than significant, in large part because the project would implement and comply with various existing hazardous material regulations related to the transport, use, and disposal of these materials. The DEIR includes the analysis and disclosure identified in the comment.

01-15 The comment asserts that the DEIR does not fully explain how it will sufficiently minimize and mitigate for the significant environmental impact that is posed by high volumes of chemicals and sediments entering Squaw Creek when stored snow melts, including melting from large snow piles that are created from plowing surface areas after winter storms. Water quality effects from stormwater discharges are addressed in the discussion of Impact 13-7 (Long-term management of runoff volumes, peak flows, and snow storage, and risks of potential degradation to water quality); on pages 13-76 through 13-84 of the DEIR. The impact discussion addresses the two distinct geographic portions of the project site, the main Village area and the East Parcel. The impact discussion provides substantial information on the design and function of the stormwater management system in the main Village area, including the identification of hydrodymanic separators, sediment traps, and other measures to protect water quality, and showing the configuration of the system in Exhibit 13-28. Further detail is available in the various MacKay & Somps drainage studies cited in the chapter (e.g., MacKay & Somps 2014e [October 16], Technical Memorandum No. 3: The Village at Squaw Valley Specific Plan: Updated Drainage Study) and available for review at the County offices. Regarding the main Village drainage system, the DEIR states the following about this system on page 13-77:

> The On-site Collection and Treatment System (On-site System) will capture runoff generated from within the project site (or off-site runoff that surface flows onto

the project site), and treated with various LID features before discharging to Squaw Creek.

Snow melt in the main Village area, whether from snow that melts where it falls or snow that is stored, will pass through the same On-site System. The snow storage sites shown in Exhibits 13-29 and 13-30 of the DEIR all fall within the main Village project site; therefore, all water leaving these snow storage sites as the snow melts will be directed into the On-site System and treated accordingly. Therefore, the constituent loadings shown in Table 13-15 of the DEIR and the resultant less than significant impact conclusion regarding stormwater discharges to Squaw Creek would not only apply to stormwater generated by rain falling in the main Village area, but also to snow melt.

Exhibit 13-31 shows the proposed snow storage plan for the East Parcel. The plan, as shown in this exhibit, places snow storage in areas near Squaw Creek where snow melt would not go through a stormwater management/treatment system before entering the creek. This is why snow storage in the East Parcel (as opposed to the main Village area) is identified as a potentially significant impact. Note that the Exhibit is labeled as "East Parcel Snow Storage Concepts." It is a concept plan and is not intended to be a final proposal. Mitigation Measure 13-7, in effect, directs further refinement of the snow storage plan, and requires that snow storage areas either be moved to the "core of the developed area" resulting in snow melt entering the stormwater management system for treatment, or being sufficiently contained and treated to meet a performance standard of "preventing discharge of sediment and/or urban pollutants to Squaw Creek and nearby wetland areas." Note that snow storage is an existing condition, and the project would simply change the location, plus provide for a higher level (improved) treatment than current conditions do to the addition of filtration and other BMPs.

The DEIR provides sufficient information to support the less than significant (main Village area) and less than significant after mitigation (East Parcel) conclusions related to snow storage/snow melt and water quality.

01-16 The same comments made in this comment regarding the Sierra Nevada yellow-legged frog are raised in comment letter O8c, which focusses exclusively on Sierra Nevada yellow-legged frog. See responses to comments O8c-2 through O8c-8, which address topics such as critical habitat for the species; the unlikely potential for the Sierra Nevada yellow-legged frog to occur in the project area based on field surveys, database research results, high levels of human disturbance (such as the golf course), and the presence of brook, brown, and rainbow trout in Squaw Creek; and the potential project effects on the species should they be found to occur, including from changed conditions in Squaw Creek.

The U.S. Fish and Wildlife Service's ongoing effort to establish survey protocols for Sierra Nevada yellow-legged frog are acknowledged and were considered during the preparation of the DEIR. While Mitigation Measure 6-2 (Avoid and minimize effects on Sierra Nevada yellow-legged frog and its habitat) provides basic survey parameters, it also stipulates that the preconstruction survey "shall be conducted by a qualified biologist approved by USFWS, and survey methods and timing would need to be approved by USFWS" (DEIR page 6-53). This requirement would ensure that surveys conducted for the project would be consistent with the most current protocol in place at the time construction is proposed. Further, if found to be present in suitable habitat, the mitigation requires that frogs would be excluded from construction areas, which would prevent injury or mortality to individual frogs. With implementation of Mitigation Measure 6-2, the public and decision-makers can appropriately rely on the approvals required by USFWS and CDFW to determine if the proposed actions would be sufficient to reduce potential impacts caused by the project.

01-17 See responses to comments O1-16 and O8c-2. The DEIR conclusions regarding potential effects on Sierra Nevada yellow-legged frog are not dependent on any potential benefits to the species from project activities identified in the DEIR. These potential benefits are identified for disclosure purposes, but are not relevant to the final impact significance conclusions.

01-18 See response to comment O1-16. Regarding the mitigation suggestions provided in the comment, for additional mitigation to be necessary to address impacts to Sierra Nevada yellow-legged frog, impacts to this species would need to remain significant after implementation of Mitigation Measure 6-2 (DEIR pages 6-53 and 6-54). However, as identified in the DEIR, and further supported by the information and evidence provided in responses to comments O8c-2 through O8c-8, potential impacts to Sierra Nevada yellow-legged frog are reduced to less than significant with implementation of Mitigation Measure 6-2.

The DEIR assesses the reasonably foreseeable and potentially significant adverse environmental effects of the proposed project against the existing environment/ baseline conditions. The existing environment within the project area provides very low quality habitat for the Sierra Nevada yellow-legged frog and the species is, therefore, not expected to occur. Implementation of the proposed project would result in little change from the existing condition for this species due, mainly, to the already disturbed project area. Actions suggested as mitigation measures in the comment could assist in recovery of the species and support expansion into an area where there is no evidence it currently exists; however, these activities would mitigate existing conditions rather than project impacts, and are therefore outside the scope of the VSVSP CEQA analysis and lack a nexus and rough proportionality to the reasonably foreseeable impacts of the project which are already reduced to less than significant with mitigation. See also responses to comments O8c-2 through O8c-8.

01-19 The comment states that the DEIR did not discuss mountain lion presence or require mitigation for this species. The proposed project would be constructed mainly within an existing paved parking lot and already disturbed parcel (East Parcel), neither of which provides suitable hunting or denning habitat for mountain lions due to the disturbed nature and high level of existing traffic and visitor activity. The portion of the proposed project that is located within an undisturbed area (near the Shirley Canyon hiking trail) is also already subject to high levels of disturbance (from hikers and Olympic Village guests). The project would, therefore, not result in any reasonably foreseeable significant adverse impacts, either direct or indirect, to mountain lions. The DEIR analysis also focuses on potential effects of project implementation on biological resources in relation to specific significance criteria established in page 6-35 of the DEIR. These criteria are based on the Placer County CEQA checklist and Appendix G of the State CEQA Guidelines. Based on these criteria, effects on mountain lion were not analyzed in the DEIR because mountain lions are not considered a protected or “special-status species” per the specific definition established in Chapter 6; the species is relatively common and not at-risk of population declines below self-sustaining levels; it is not a migratory species; and there are no local policies or ordinances that specifically protect mountain lion habitat in the project area. As the comment states, mountain lions are protected from hunting and other forms of take; and, these legal protections apply to the species statewide. Implementation of the VSVSP would not conflict with these protections.

01-20 The comment states that the DEIR fails to provide an adequate list of federally listed species that may be affected by the project, but does not list any specific species that were allegedly wrongfully omitted from the EIR’s analysis. The DEIR uses the official species list generated from the USFWS website at the time of the DEIR preparation. The list generated by the USFWS website was created in September of 2014.The species list generated from the Sacramento USFWS office states “Our database is constantly updated as species are proposed, listed and delisted. If you address proposed and candidate species in your planning, this should not be a problem. However, we recommend that you get an updated list every 90 days. That would be

December 17, 2014." This indicates that the USFWS believes that their database is updated regularly and the list is an accurate representation of the species potential affected. The citation that lists 2011 as the last update has a text error. The species list generated does not list the date of an update. Additionally, lists were generated from both the Sacramento and Nevada USFWS offices and the references only cited the Sacramento Office. The following USFWS references on page 20-7 of the DEIR are updated as follows:

_____. 2014a. List of Federal Endangered and Threatened Species that Occur in or may be Affected by Projects in the Tahoe City, USGS 7.5-Minute Quadrangle. Document Number: 140918120932. An online database for building lists of species that may be affected by projects in specific counties of quadrangles. Available: www.fws.gov/sacramento/es_species/Lists/es_species-lists_quad-finder_quick listcfm?ID=511B. ~~Last updated September 18, 20114.~~ Accessed September 18, 2014.

_____. 2014b (April 29). Endangered and Threatened Wildlife and Plants; Endangered Species Status for Sierra Nevada Yellow- Legged Frog and Northern Distinct Population Segment of the Mountain Yellow-Legged Frog, and Threatened Species Status for Yosemite Toad. Final Rule. Federal Register. Vol 79. No. 82. 50 CFR Part 17 RIN 1018–AZ21.

_____. 2014c. List of Federal Endangered and Threatened Species that Occur in or may be Affected by your proposed project. Consultation Tracking Number: 08ENVD00-2014-SLI-0364. An online database for building lists of species that may be affected by projects in specific counties of quadrangles. Available at: http://www.fws.gov/nevada/es/ipac.html. Accessed September 18, 2014.

The reason the URL for the Sacramento USFWS office was not accessible by the commenter is because that office has since changed the species list generation process and URL. It now uses the IPAC website as stated on the Sacramento USFWS website: http://www.fws.gov/sacramento/es_species/Lists/es_species_lists-overview.htm. The Nevada USFWS office was already using the IPAC website at the time of the species list was generated.

01-21 The comment suggests inconsistencies between the traffic analysis in DEIR Chapter 9, "Transportation and Circulation," and the estimation of greenhouse gas (GHG) emissions presented in Chapter 16, "Greenhouse Gases and Climate Change." More specifically, the comment states, "Rather than calculating the emissions impact by taking into account a greater number of annual vehicle trips as a result of the Project, the GHG emission model assumed that the total number of annual vehicle trips would be the same before and after completion of the Project (DEIR at Appendix H)." The commenter is mistaken. As stated on page 16-12 of the DEIR, mobile-source GHG emissions were estimated using the emission factors provided in the California Emissions Estimator Model (CalEEMod), estimates of total vehicle miles traveled (VMT) that were developed as part of the transportation analysis Chapter 9, and the vehicle fleet mix observed along Squaw Valley Road. Also, per guidance from the Placer County Air Pollution Control District (PCAPCD), the analysis focuses on the GHG efficiency in which the proposed project would operate, as explained on page 16-9, although this approach has been modified in this document; see the Master Response regarding the GHG analysis. The CalEEMod modelling and the VMT estimates both incorporate additional vehicle trips generated by the proposed project.

The commenter states that the estimate of GHG emissions from increased vehicle trips did not account for how the project would result in more traffic congestion, including vehicles spending more time idling in traffic queues and "the average drive time required for each of those vehicles to reach the Project site will also increase." Indeed, the estimate of the proposed project's mobile-source GHG emissions is based primarily on VMT and does not

account for changes in vehicle travel speeds or the average drive time of vehicles. Any attempt to account for these factors would suggest a false sense of precision to the reader because numerous factors can influence parameters such as travel speed and drive time. For instance, an increase in the traffic volume along a roadway may result in slower travel speeds, which could result in either a decrease or increase in the per-mile rate at which GHG emissions are generated by the affected vehicles. The volume of GHGs emitted from a vehicle for each mile driven varies with speed and is not a linear relationship. Some slower speeds generate less GHG emissions per a mile than some higher speeds. The emissions/speed relationship also varies by vehicle. For example, a gas/electric hybrid vehicle would be using the electric motor at slow speeds and would have less emissions than at higher speeds when the gasoline motor is in use. Moreover, the method used to calculate mobile-source GHG emissions in the DEIR is consistent with guidance from PCAPCD as well as air districts throughout California. Finally, the analysis provides an estimate, and the estimate is sufficiently precise to inform decision makers with regard to the magnitude of this significant effect. Also, see the Master Response regarding the GHG analysis.

01-22 Referring to the list of existing GHG reduction measures being implemented by Squaw Valley Ski Resort (listed on page 16-3 of the DEIR), the commenter suggests that the DEIR relies on these reductions "as part of the baseline analysis." The list of existing GHG reduction measures is presented in the DEIR for informational purposes only. On page 16-3 of the DEIR it is explained that the estimated annual reduction in GHG emissions from these measures is provided in the resort's report, and has not been independently verified in the DEIR (i.e., are not included in the DEIR baseline emissions calculations). The commenter suggests that these measures should be "clearly described and analyzed to provide the public and decision-makers the information needed for an informed understanding of the environmental impact of the Project." The DEIR, however, focuses on whether the proposed project, which consists of the development and operation of additional new facilities in the Main village and East Parcel areas would have impacts to the environment. The DEIR's purpose is not to evaluate existing ski resort operations or continued operations of any other existing facilities in Squaw Valley.

In addition, the primary focus of the GHG analysis under Impact 16-2 (starting on page 16-15) is the total emissions of GHG from the project, as well as GHG efficiency in which the proposed project would operate. Also, see the Master Response regarding the GHG analysis for additional information on this issue.

Mitigation Measure 16-2 requires the applicant to implement an ongoing GHG reduction program so that the GHG efficiency of land uses developed under the Village at Squaw Valley Specific Plan would be consistent with any GHG reduction targets legislated by the state. Achievement of the necessary GHG efficiency identified in the future may or may not include any measures from the list of existing GHG reduction measures being implemented by Squaw Valley Ski Resort.

01-23 The comment provides a summary of detailed comments provided above. See responses to the detailed comments above. Also see the Master Response regarding recirculation, explaining why recirculation of this EIR is not required.

The remainder of the comment is directed towards the project approval process and does not address the content, analysis, or conclusions in the DEIR. Therefore, no further response is provided here. All comment letters submitted during the DEIR public review period will be reviewed and considered by the Placer County Planning Commission and Board of Supervisors before a decision on the project is rendered.