

Attachment 2

CEQA Initial Study/Mitigated Negative Declaration
Response to Comments and Mitigation Monitoring and Reporting Program



Town of Mammoth Lakes

**Terry Plum Vesting Tentative Parcel Map and
Use Permit 10-001**

Initial Study/Mitigated Negative Declaration
(State Clearinghouse No. 2010122005)

Response to Comments and
Mitigation Monitoring and Reporting Program

May 11, 2011

Lead Agency:

Town of Mammoth Lakes
PO Box 1609
437 Old Mammoth Road, Suite R
Mammoth Lakes, California 93546

*Contact: Ms. Jessica Morriss, Transportation Planner
(760) 934-8989 ext. 225*

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1.0 INTRODUCTION

The Final Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared pursuant to the requirements of the California Environmental Quality Act (CEQA) (see Public Resources Code Section 21000 et seq.), as well as the State CEQA Guidelines (see Title 14 of the California Code of Regulations Section 15000 et seq.).

The Draft IS/MND was made available for public review and comment pursuant to State CEQA Guidelines Section 15070 et seq. The public review period commenced on November 29, 2010 and ended on December 28, 2010; the state agency review period concluded on December 30, 2010. The Draft IS/MND and supporting attachments were available for review by the general public on the Town of Mammoth Lakes Website and at the offices of the Town of Mammoth Lakes Community Development Department, 437 Old Mammoth Road, Suite R, Mammoth Lakes, California.

The Response to Comments and Mitigation Monitoring and Reporting Program document, which describes changes and additions to the Draft IS/MND in response to comments received during public review, as well as minor changes that were made to the proposed Project following public review, together with the Draft IS/MND, constitute the Final IS/MND.

1.1 CHANGES AND ADDITIONS TO THE DRAFT IS/MND

Following the public review period, two revisions were made to the scope of the proposed Project that result in a reduction of potential environmental impacts. Firstly, the proposed public parking area has been reduced in size and scope, and has been relocated, from the original Project proposal studied in the Draft IS/MND. The original Project proposal included a public parking area with a maximum of six paved parking spaces (including one ADA space) intended to serve an existing trail across the property that has historically been used to access public lands south of the site. The proposed public parking area has been reduced in size to provide one ADA parking space only, which will be located at the terminus of the existing Tamarack Street. No additional public parking would be provided on the site. Because the overall number of parking spaces has been reduced, there would be no new impacts or increase in severity of impacts previously described in the Draft IS/MND.

This change is expected to reduce potential environmental impacts identified in the Draft IS/MND as follows:

- Reduction in the total square footage of on-site paved area (approximately 1600 square feet less),
- Reduction in the amount of required grading,
- Reduction of the size and number of required retaining walls,
- Reduction of the amount of tree and vegetation removal and,
- Potential reduction in the amount of vehicle traffic on Tamarack Street by discouraging vehicle use.



Secondly, the Project proposal now includes minor improvements to the existing transit stop located at the intersection of Old Mammoth Road and Tamarack Street, which is approximately 0.3 miles from the Project site. Improvements to the transit stop are intended to encourage transit use and to discourage vehicles from driving and parking on Tamarack Street to access the public lands south of the Project site. Improvements would likely consist of relocating the existing transit stop from the southwest corner to the southeast corner of the intersection, paving a 50 to 60-foot long turnout within existing disturbed roadway right-of-way, and potentially providing wayfinding signage related to the public access trail to be provided through the Project site. The new paved area associated with the turnout would likely offset the reduction in paved area from removal of the public parking area. However, because the proposed turnout area is within existing disturbed right-of-way, and due to the limited extent of disturbance, there would be no new impacts or increase in severity of impacts previously described in the Draft IS/MND.

This change is expected to reduce potential environmental impacts identified in the Draft IS/MND as follows:

- Improved intersection safety for vehicles and pedestrians by relocating the existing transit stop to the opposite corner of the intersection and providing a paved bus turnout. This will improve driver sight-distance and reduce impedance of the traffic flow by providing space for buses to pull out of the travel lane, and
- Potential reduction in the amount of vehicle traffic on Tamarack Street by encouraging transit use.

Therefore, because the revisions described above reduce the potential environmental impacts associated with the Project, the environmental analysis performed for the Draft IS/MND represents a conservative analysis of the potential impacts. As such, no additional analysis was necessary as no new or significant impacts in excess of what were previously analyzed would occur as a result of these changes. Therefore, the mitigation measures established in the Draft IS/MND, and as conditions of Project approval, are still applicable and valid.

Although the analysis was not updated, the following revisions and corrections have been made to the Draft IS/MND following the public review period to account for the revisions to the scope of the proposed Project. In addition, although not in response to a specific comment on the Draft IS/MND or to the revised Project scope, a minor correction has been made to the Project Background and History section of the Project Description. Other changes to the text of the Draft IS/MND that were made in response to comments received on the draft are described in Section 2.0, Response to Comments. All changes are listed by corresponding Draft IS/MND section, subsection, if applicable, and page number. Additions to the Draft IS/MND are identified by underlined text and deletions are identified by strikethrough text.

1.0 Introduction

To reflect the changes to the Project noted above, paragraph 2 on page 1-1 was revised as follows:



The proposed Project is a Vesting Tentative Parcel Map and Use Permit (VTPM/UPA 10-001) to subdivide a 4.39 acre parcel (APN 022-400-025) into four lots for the development of single-family homes. Three of the new lots will take access via a roadway extension at the south end of Tamarack Street (Gibbs Cemetery Road) and the fourth lot will take access from Le Verne Street in the Bluffs subdivision. The Project proposes to dedicate approximately 0.25 acres of land to the Town of Mammoth Lakes and the construction of one designated public ADA parking space ~~a public parking area with a maximum of six paved parking spaces (including one ADA space)~~, as well as a 10-foot wide non-motorized public access easement to the United States Forest Service (USFS) lands south of the Project. The Project also proposes measures to improve emergency access along Tamarack Street by widening the pavement in three areas to create turn-out locations and by providing one new fire hydrant, consistent with Town Public Works Standards. Improvements to the existing transit stop on Old Mammoth Road at Tamarack Street are also included to encourage transit use and to discourage vehicles from driving and parking on Tamarack Street to access the public lands south of the Project site.

2.2 Project Background and History

A minor correction to information stated in the Project Background and History section of the Project Description on page 2-2 has also been made:

Over the years, a number of lot line adjustments ~~and lot subdivisions~~ have occurred within the Bluffs Subdivision, including lot line adjustments for the Project parcel a subdivision that created two of the three lots that are currently owned by the Project applicant.

2.3 Project Characteristics

The following revisions were made to the Project Characteristics section of the Project Description on page 2-3:

Although not required, the Project proposes to dedicate approximately 0.25 acres of land to the Town of Mammoth Lakes, as well as to construct one designated public ADA parking space, ~~part of which would be for the development of a public parking area with a maximum of six paved parking spaces (including one ADA space)~~. The remaining dedicated land would continue to be used as snow storage for Town winter maintenance operations.

Also proposed is a 10-foot wide non-motorized public access easement across the eastern boundary of the property to connect ~~the proposed public parking area and~~ to the United States Forest Service (USFS) lands south of the Project. The non-



motorized public access easement is consistent with the 1991 Town of Mammoth Lakes Trail System Plan. The ~~public parking area and the~~ non-motorized access easement ~~are~~ is intended to serve existing demand by recreational users who wish to access the nearby USFS lands; refer to Exhibit 2-4, Proposed Project Site Plan.

The Project also proposes measures to improve emergency access along Tamarack Street, which is considered substandard by the Town of Mammoth Lakes based on its adopted street standards and by the Mammoth Lakes Fire Protection District (MLFPD). To address this, the project includes widening the pavement in three areas to create turn-out locations in accordance with Town Public Works Standards. The Project also includes the addition of one new fire hydrant on Tamarack Street, as well as two new hydrants along the private drive to serve the future homesites and nearby homes; refer to Exhibit 2-5, Proposed Tamarack Street Improvements.

Additionally, the existing transit stop located at the intersection of Old Mammoth Road and Tamarack Street, which is approximately 0.3 miles from the Project site, will be improved in an effort to encourage transit use and to discourage vehicles from driving and parking on Tamarack Street to access the public lands south of the Project site. Improvements would likely consist of relocating the existing transit stop from the southwest corner to the southeast corner of the intersection, paving a 40 to 50-foot long turnout within existing disturbed right-of-way, and potentially providing wayfinding signage related to the non-motorized public access trail provided through the Project site.

4.1 Aesthetics

The following revisions were made to paragraph 5 in the Aesthetics section of the Environmental Analysis on page 4-2:

The Project, including the public ~~parking area~~ ADA parking space and off-site turnout improvements to Tamarack Street, will involve a minimal amount of tree and/or brush removal and will be required to comply with Town standards regarding tree and vegetation preservation and replacement, as established in Municipal Code Section 12.08. The transit stop on Old Mammoth Road at Tamarack Street, if relocated to the opposite corner, would be improved within existing disturbed right-of-way and would require minimal vegetation removal if any.

4.3 Air Quality

The following revisions were made to paragraph 3 in the Air Quality section of the Environmental Analysis on page 4-5 and continuing on page 4-6:



The public ~~parking area~~ ADA parking space, which is proposed with the Project, ~~would include the construction of a maximum of six parking spaces, including one ADA space. The public parking lot is intended to provide improved opportunity for disabled users who wish to access the USFS lands south of the site serve existing demand by recreational users who access the nearby USFS lands. While it is unlikely that the construction of a formalized parking area would create a much greater parking demand than that which already exists, it~~ It is possible that an increase in trips could occur along Tamarack Street as a result of the construction of one ADA parking space; however, if this were to occur, this is ~~is~~ would be expected to represent a de minimus increase in trips. Additionally, existing trips to the area may decrease as a result of the proposed transit stop improvements on Old Mammoth Road at Tamarack Street. The off-site turnout improvements to Tamarack Street are not expected to increase vehicle trips, since they are intended to improve access and safety for emergency vehicles and existing users of Tamarack Street.

4.4 Biological Resources

The following revisions were made to paragraph 3 on page 4-11 in the Biological Resources section of the Environmental Analysis:

Additionally, the Project, including the public ~~parking area~~ ADA parking space and off-site turnout improvements to Tamarack Street, will involve a minimal amount of tree and/or brush removal and will be required to comply with Town standards regarding tree and vegetation preservation and replacement, as established in Municipal Code Section 12.08. The transit stop on Old Mammoth Road at Tamarack Street, if relocated to the opposite corner, would be improved within existing disturbed right-of-way and would require minimal vegetation removal if any.

4.5 Cultural Resources

The following revisions were made to paragraph 6, sentence 1 in the Cultural Resources section of the Environmental Analysis on page 4-14:

TSAR reviewed the existing easement in relation to the proposed Project and determined that future development of the single-family home sites and public ~~parking area~~ ADA parking space that may occur as a result of the approval of VTPM/UPA 10-001 will not impact the existing presumed gravesites because no development or disturbance shall be permitted within the easement and that the easement is located an adequate distance from the anticipated future single-family home building locations.

Cultural Resources Mitigation Measure 2 was also revised as follows:

CUL-2: Additionally, in accordance with State law and the Bluffs EIR, in the event that a material of potential cultural significance is uncovered during grading and/or construction, including grading and construction of the parcels, public ~~parking~~



~~area ADA parking space, and~~ off-site turnout improvements to Tamarack Street, ~~and improvements to the transit stop on Old Mammoth Road at Tamarack Street,~~ all work in the area of the uncovered material shall cease, the Town notified, and an archaeological monitoring program should be implemented. The monitoring program shall be managed by an archaeologist who meets the *Secretary of the Interior's Professional Qualification Standards*. The archaeological monitoring program shall include provisions for an archaeological monitor; assessing the significance of archaeological finds; consideration of avoidance and minimization of impacts to significant archaeological resources (in consultation with the Town); mitigation measures including archaeological excavation, laboratory analysis, reporting, and curation; and consultation with Indian Tribes if resource is prehistoric in nature.

This revised Mitigation Measure is included in the Mitigation Monitoring and Reporting Program in Chapter 3.0.

4.6 Geology and Soils

The following revision was made to paragraph 3 in the Geology and Soils section of the Environmental Analysis on page 4-18:

Although future construction of single-family homes on the newly created lots, and the addition of a public ~~parking area~~ ADA parking space to serve people wishing to access the adjacent public lands, could expose people to risks associated with seismic activity present in the region, those specific risks would not be exacerbated by, nor would they be greater than the general level of geologic risk associated with any new construction in the town.

4.7 Greenhouse Gas Emissions

The following revisions were made to paragraph 3 in the Greenhouse Gas Emissions section of the Environmental Analysis on page 4-20:

Additionally, although not required, the Project proposes to provide a public ~~parking area with a maximum of six spaces (including one ADA space)~~ ADA parking space and a non-motorized access easement through the property to provide recreational users access to the USFS lands to the south of the property. ~~While it is unlikely that the construction of a formalized parking area would create a much greater parking demand than that which already exists, it~~ It is possible that an increase in trips could occur along Tamarack Street as a result of the construction of one ADA parking space; however, ~~if this were to occur, this is~~ would be expected to represent a de minimus increase in trips and GHG emissions. Provision of the non-motorized access easement is consistent with the Town's adopted 1991 Trail System Plan and its 2009 Draft Trail System Master Plan, both of which aim to reduce overall GHG emissions in the Town by providing an extensive system of pedestrian and recreational trails. Additionally, existing trips to the area may decrease as a result of



the proposed transit stop improvements on Old Mammoth Road at Tamarack Street. Nonetheless, Mitigation Measures AQ-1, AQ-3, and AQ-4 should be implemented to reduce potential GHG emission impacts.

4.10 Land Use Planning

The following revisions were made to paragraph 2 in the Land Use and Planning section of the Environmental Analysis on page 4-29:

The Project borders the southern boundary of the Town's UGB and abuts USFS land. The Project proposes to improve the existing Tamarack Street, improve the transit stop at Old Mammoth Road and Tamarack Street, provide a ADA parking area space for users of a trailhead accessing Forest Service land, and to provide a pedestrian easement, thus resulting in improved connectivity and access. Thus there would be **no impact** to land use and planning as a result of the Project.

4.15 Traffic and Transportation

The following revisions were made to paragraph 1 in the Traffic and Transportation section of the Environmental Analysis on page 4-29:

The Bluffs EIR included a traffic impact analysis for the 79-90 single-family home lots within the Bluffs subdivision, including the lot that is proposed to be subdivided under the proposed Project. Because the Project proposes to create an additional three single-family homes, all of which will access Tamarack Street, a traffic impact analysis for Tamarack Street was prepared by Town staff and is provided in Appendix E. The traffic analysis estimated the cumulative vehicle trips on Tamarack Street, with and without the Project, and assessed the potential roadway capacity impacts that may result from the three additional single-family homes, as well as the proposed public parking area (maximum of 6 spaces) that was included in the environmental analysis in the Draft IS/MND. As stated earlier, the analysis was not updated to reflect the change in location or the reduction in the size and scope of the parking area from a maximum of six spaces to only one ADA parking space. Therefore, the analysis provided in the Draft IS/MND represents a conservative analysis of potential traffic and transportation related environmental impacts.

1.2 RESPONSE TO COMMENTS

During the public review period, comments were received on the Draft IS/MND from certain interested public agencies and private parties. The following is a list of the persons, firms, or agencies that submitted comments on the Draft IS/MND during the public review period:

1. Scott Morgan, Director, State Clearinghouse, State of California Governor's Office of Planning and Research, State Clearinghouse and Planning Unit, dated December 31, 2010 (attached as Letter 1);



2. Steve Schwind, e-mail correspondence dated November 30, 2010 (attached as Letter 2);
3. Dave Singleton, Program Analyst, Native American Heritage Commission, dated December 24, 2010 (attached as Letter 3);
4. Brad Henderson, Acting Deputy Regional Manager, State of California Department of Fish and Game, dated December 10, 2010 (attached as Letter 4);
5. Irene Yamashita, Environmental Specialist and Public Affairs, Mammoth Community Water District, dated December 23, 2010 (attached as Letter 5);
6. Timothy B. Sanford, Law Offices of Timothy B. Sanford, dated December 28, 2010 (attached as Letter 6);
7. Deanna Lantieri, sent via email December 28, 2010 (attached as Letter 7)
8. Fairway Ranch Homeowners Association, sent via email December 29, 2010 (attached as Letter 8).
9. Thomas and Jacqueline Ray, sent via email December 28, 2010 (attached as Letter 9).

Even though CEQA and the State CEQA Guidelines do not require a Lead Agency to prepare written responses to comments received on an IS/MND, as contrasted with a Draft Environmental Impact Report, the Town of Mammoth Lakes has elected to prepare the following written responses with the intent of conducting a comprehensive and meaningful evaluation of the proposed project.

The number designations in the responses are correlated to the bracketed and identified portions of each comment letter.

1.3 MITIGATION MONITORING AND REPORTING PROGRAM

CEQA requires that when a public agency completes an environmental document which includes measures to mitigate or avoid significant environmental effects, the public agency must adopt a reporting or monitoring program. This requirement ensures that environmental impacts found to be significant will be mitigated. The reporting or monitoring program must be designed to ensure compliance during project implementation (Public Resources Code Section 21081.6).

In compliance with Public Resources Code Section 21081.6, the attached Section 3, *Mitigation Monitoring and Reporting Program*, has been prepared for the Terry Plum Vesting Tentative Parcel Map and Use Permit 10-001 Project. This Mitigation Monitoring and Reporting Program is intended to provide verification that all applicable Conditions of Approval relative to significant environmental impacts are monitored and reported. Monitoring will include: 1) verification that each mitigation measure has been implemented; 2) recordation of the actions taken to implement each mitigation; and 3) retention of records in the Terry Plum Vesting Tentative Parcel Map and Use Permit 10-001 Project file.



This Mitigation Monitoring and Reporting Program delineates responsibilities for monitoring the project, but also allows the Town of Mammoth Lakes (Town) flexibility and discretion in determining how best to monitor implementation. Monitoring procedures will vary according to the type of mitigation measure. Adequate monitoring consists of demonstrating that monitoring procedures took place and that mitigation measures were implemented. This includes the review of all monitoring reports, enforcement actions, and document disposition, unless otherwise noted in the attached Mitigation Monitoring and Reporting Program table. If an adopted mitigation measure is not being properly implemented, the designated monitoring personnel shall require corrective actions to ensure adequate implementation.

Reporting consists of establishing a record that a mitigation measure is being implemented, and generally involves the following steps:

- Departments/agencies with reporting responsibilities will review the Initial Study, which provides general background information on the reasons for including specified mitigation measures.
- The Town will distribute reporting forms to the appropriate entities for verification of compliance.
- Problems or exceptions to compliance will be addressed to the Town as appropriate.
- Periodic meetings may be held during project implementation to report on compliance of mitigation measures.
- Responsible parties provide the Town with verification that monitoring has been conducted and ensure, as applicable, that mitigation measures have been implemented. Monitoring compliance may be documented through existing review and approval programs such as field inspection reports and plan review.
- The Town prepares a reporting form periodically during the construction phase and an annual report summarizing all project mitigation monitoring efforts.
- Appropriate mitigation measures will be included in construction documents and/or conditions of permits/approvals.

Minor changes to the Mitigation Monitoring and Reporting Program, if required, would be made in accordance with CEQA and would be permitted after further review and approval by the Town. Such changes could include reassignment of monitoring and reporting responsibilities, program redesign to make any appropriate improvements, and/or modification, substitution, or deletion of mitigation measures subject to conditions described in CEQA Guidelines Section 15162. No change will be permitted unless the Mitigation Monitoring and Reporting Program continues to satisfy the requirements of Public Resources Code Section 21081.6.



2.0 RESPONSE TO COMMENTS



Arnold Schwarzenegger
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Cathleen Cox
Acting Director

December 31, 2010



Jessica Morriss
City of Mammoth Lakes
P.O. Box 1609
Mammoth Lakes, CA 93546

Subject: Terry Plum Vesting Tentative Parcel Map and Use Permit 10-001
SCH#: 2010122005

Dear Jessica Morriss:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on December 30, 2010, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

1-1

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,


Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# 2010122005
Project Title Terry Plum Vesting Tentative Parcel Map and Use Permit 10-001
Lead Agency Mammoth Lakes, City of

Type MND Mitigated Negative Declaration

Description The Project proposes to subdivide a 4.39 acre parcel (APN 022-400-025) into four lots for the future development of single-family homes. Three of the new lots will take access via a private driveway that will connect to an extension of the public roadway at the south end of Tamarack Street (Gibbs Cemetery Road). The fourth lot will take access from Le Verne Street in the Bluffs subdivision. The project proposes to dedicate approximately 0.25 acres of land to the Town of Mammoth Lakes, part of which would be for the development of a public parking area with a maximum of six paved parking spaces (including one ADA space). The remaining dedicated land would continue to be used as snow storage for Town winter maintenance operations.

Also proposed is a 10-foot wide non-motorized public access easement across the eastern boundary of the property to connect the proposed public parking area and the United States Forest Service (USFS) lands south of the Project. The public parking area and the non-motorized access easement are intended to serve existing demand by recreational users who wish to access the nearby USFS lands. The project also proposes measures to improve emergency access along Tamarack Street, which is considered substandard by the Town of Mammoth Lakes based on its adopted street standards and by the Mammoth Lakes Fire Protection District (MLFPD). To address this, the project includes widening the pavement in three areas to create turn-out locations. The Project also includes the addition of one new fire hydrant on Tamarack Street.

Lead Agency Contact

Name Jessica Morriss
Agency City of Mammoth Lakes
Phone (760) 934-8989 ext. 225 **Fax**
email
Address P.O. Box 1609
City Mammoth Lakes **State** CA **Zip** 93546

Project Location

County Mono
City Mammoth Lakes
Region
Lat / Long
Cross Streets Tamarack Street/Old Mammoth Road
Parcel No. 022-400-025
Township 4S **Range** 27E **Section** 6 **Base** MDB&M

Proximity to:

Highways SR 203
Airports
Railways
Waterways Mammoth Creek
Schools
Land Use The Project site is designated/zoned as Open Space (OS) by the Mono County General Plan and Industrial/Public Agency (PA) by the Mammoth/June Lake Airport Land Use Plan.

**Document Details Report
State Clearinghouse Data Base**

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archaeologic-Historic; Drainage/Absorption; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Minerals; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Septic System; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife; Growth Inducing; Landuse; Cumulative Effects

Reviewing Agencies Resources Agency; Department of Fish and Game, Region 6 (Inyo & Mono Region); Cal Fire; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 9; Regional Water Quality Control Bd., Region 6 (Victorville); Native American Heritage Commission

Date Received 12/01/2010 **Start of Review** 12/01/2010 **End of Review** 12/30/2010



1. RESPONSES TO COMMENTS FROM SCOTT MORGAN, STATE OF CALIFORNIA GOVERNOR'S OFFICE OF PLANNING AND RESEARCH, STATE CLEARINGHOUSE AND PLANNING UNIT, DECEMBER 31, 2010.

- 1-1 This comment indicates that the State Clearinghouse submitted the IS/MND to selected state agencies for review, and that the comment period for the IS/MND concluded on December 30, 2010. The comment indicates that the lead agency complied with the review requirements for draft environmental documents pursuant to CEQA. As such, the comment does not provide specific comments regarding information presented in the IS/MND.

The Reviewing Agency comments attached to this State Clearinghouse letter are the State of California Department of Fish and Game (see Letter 3) and the Native American Heritage Commission (see Letter 4). Please see referenced letters for responses to these Reviewing Agency comments.

Jessica Morriss

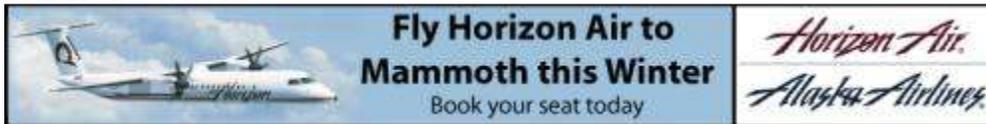
From: Steve Schwind [steve@mammothlakes.com]
Sent: Tuesday, November 30, 2010 11:23 AM
To: Jessica Morriss
Subject: RE: Terry Plum Project - Notice of Availability - Initial Study/Mitigated Negative Declaration

Jessica

My comment on the Terry Plum Project has to do with the 10 foot non motorized easement that runs north and south on the Project. I appreciate and support the 10 foot non-motorized easement that will provide equestrian access to the Meadow and public Forest Service Lands in the Sherwins. This will not only preserve the historical Meadow access equestrian users have enjoyed throughout the years but will preserve all other non-motorized access to the public land that borders the Terry Plum Project.

2-1

STEVE SCHWIND
OWNER/BROKER
PRESTIGE PROPERTIES OF MAMMOTH
SHOULDA-BIN-A COWBOY LAND & CATTLE CO.
PRESTIGE PROPERTIES OF THE EASTERN SIERRA
CENTRAL RESERVATIONS OF MAMMOTH
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760/497-4245 Cell
760/934-1703 Fax
STEVE@MAMMOTHLAKES.COM
WWW.MAMMOTHLAKES.COM
WWW.MAMMOTHLAKES-VACATIONRENTALS.COM
WWW.MAMMOTHREALESTATEONLINE.COM
DRE License 01199197



From: Jessica Morriss [mailto:jmorriss@ci.mammoth-lakes.ca.us]
Sent: Wednesday, November 24, 2010 4:44 PM
To: Bidy Liebig; Dave and Alane Beardsley; David Kent; Don Liebig; Michael Dubin; Paul Roten; Ray Leonard; Robert Creasy; steve@mammothlakes.com; tjp5552@aol.com
Cc: Mark Wardlaw; Sandra Moberly; Ellen Clark; barjur6@gmail.com; sharonr.clark@gmail.com; Jay Deinken; rjd@sierranevadalodge.com; e10ney@charter.net
Subject: Terry Plum Project - Notice of Availability - Initial Study/Mitigated Negative Declaration

Hi Everyone,

The Initial Study/Mitigated Negative Declaration (CEQA Environmental Review) for the Terry Plum Project (Vesting Tentative Parcel Map and Use Permit 10-001) is now available on the Town of Mammoth Lakes website at the below address, as well as at the Community Development Dept. office for review.

The public comment period for the Initial Study/Mitigated Negative Declaration begins on Monday, November 29th 2010 and ends on Tuesday, December 28th, 2010.

<http://www.ci.mammoth-lakes.ca.us/index.aspx?nid=362>



2. RESPONSES TO COMMENT FROM STEVE SCHWIND, EMAIL CORRESPONDENCE DATED NOVEMBER 30, 2010.

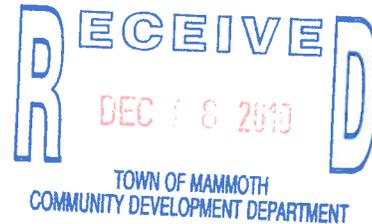
- 2-1 The commenter states that he “appreciates” and “supports” the 10-foot non-motorized public access easement that will provide access to the United States Forest Service lands that are adjacent to the southern border of the Project. The 10-foot non-motorized public access easement is described in Sections 2.3, 4.3, 4.7, 4.14, and 4.15 of the IS/MND; no response necessary.

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
 SACRAMENTO, CA 95814
 (916) 653-6251
 Fax (916) 657-5390
 Web Site www.nahc.ca.gov
 e-mail: ds_nahc@pacbell.net



December 24, 2010



Ms. Jessica Morriss

Town of Mammoth Lakes

P.O. Box 1609
 Mammoth Lakes, CA 93546

Re: SCH#2010122005; CEQA Notice of Completion; proposed Mitigated Negative Declaration for the Terry Plum Vesting Tentative Parcel Map and Use Permit 10-001 Project; located in the Town of Mammoth Lakes; Mono County, California

Dear Ms. Morriss:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources. (Also see *Environmental Protection Information Center v. Johnson* (1985) 170 Cal App. 3rd 604). The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amendment effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance. The lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE), and if so, to mitigate that effect. State law also addresses Native American Religious Expression in Public Resources Code §5097.9.

3-1

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural Resources were NOT identified within one-half mile of several of the Area of Potential Effect (APE). There are, however, Native American cultural resources in close proximity to the APE. Also, it is important to understand that the absence of archaeological, Native American cultural resources in an area does not indicate that they are not present, or will be present once ground-breaking activity begins. The NAHC recommends early consultation with Native American tribes in your area as the best way to avoid unanticipated discoveries once a project is underway and to learn of any sensitive cultural areas.

3-2

Enclosed a list with the names of the culturally affiliated tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource.. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed

3-3

whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes.

Furthermore the NAHC recommends that you contact the California Historic Resources Information System (CHRIS) of the Office of Historic Preservation (OHP), for information on recorded archaeological data. This information is available at the OHP Office in Sacramento (916) 445-7000.

3-4

Consultation with tribes and interested Native American tribes and interested Native American individuals, as consulting parties, on the attached NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f] *et seq.*), 36 CFR Part 800.3, .4 & .5, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq.*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. The 1992 *Secretary of the Interior's Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including *cultural landscapes*. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e).

3-5

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery'. Discussion of these should be included in your environmental documents, as appropriate.

3-6

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of "historic properties of religious and cultural significance" may also be protected the under Section 304 of the NHPA or at the Secretary of the Interior' discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C, 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

3-7

CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens. Although tribal consultation under the California Environmental Quality Act (CEQA; CA Public Resources Code Section 21000 – 21177) is 'advisory' rather than mandated, the NAHC does request 'lead agencies' to work with tribes and interested Native American individuals as 'consulting parties,' on the list provided by the NAHC in order that cultural resources will be protected. However, the 2006 Senate Bill 1059 the state enabling legislation to the Federal Energy Policy Act of 2005, does mandate tribal consultation for the 'electric transmission

3-8

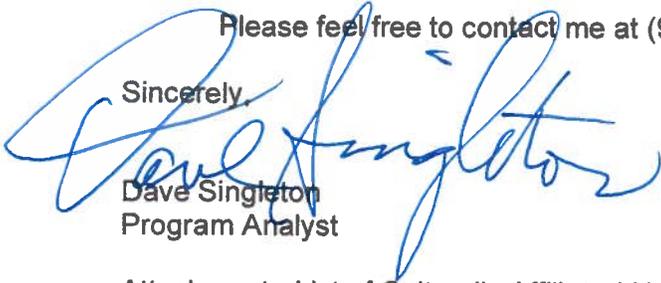
corridors. This is codified in the California Public Resources Code, Chapter 4.3, and §25330 to Division 15, requires consultation with California Native American tribes, and identifies both federally recognized and non-federally recognized on a list maintained by the NAHC

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

3-9

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Culturally Affiliated Native American Contacts

Cc: State Clearinghouse

Native American Contacts
Mono County
December 24, 2010

Benton Paiute Reservation
Mike Keller, Chairperson
Star Route 4, Box 56-A Paiute
Benton, CA 93512
numic@qnet.com
(760) 933-2321
(760)933-2412

Big Pine Band of Owens Valley
Virgil Moose, Chairperson
P. O. Box 700 Owens Valley Paiute
Big Pine, CA 93513
(760) 938-2003
bigpinetribaladmin@earthlink
.net
(760) 938-2942-FAX

Bridgeport Paiute Indian Colony
Joseph Art Sam, Chairperson
P.O. Box 37 Paiute
Bridgeport, CA 93517
bicgovadm@yahoo.com
(760) 932-7083
(760) 932-7846 Fax

Mono Lake Indian Community
Charlotte Lange, Chairperson
P.O. Box 117 Mono
Big Pine, CA 93513 Northern Paiute
clange2008@hotmail.com
(760) 938-1190

Big Pine Band of Owens Valley THPO
Bill Hellmer, Tribal Historic Preservation Officer
P.O. Box 700 Paiute
Big Pine, CA 93513
amargosa@aol.com
(760) 938-2003
(760) 937-3331 - cell
(760) 938-2942 fax

Bishop Paiute Tribe THPO
Theresa Stone-Yanez
50 Tu Su Lane Paiute - Shoshone
Bishop, CA 93514
theresa.
(760) 937-0351 -work cell
(760) 873-4143 - FAX

KutzadikaA Indian Community Cultural Presv.
Raymond Andrews, Chairman
P.O. Box 591 Paiute
Bishop, CA 93515
(760) 920-0357

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and federal NAGPRA. And 36 CFR Part 800.

This list is only applicable for contacting local Native Americans for consultation purposes with regard to cultural resources impact by the proposed sCH#2010122005; CEQA Notice of Completion; proposed Mitigate Negative Declaration for the Terry Plum Vesting Tentative Parcel Map and Use Permit 10-001 Project; located in the Town of Mammoth Lakes; Mono County, California.

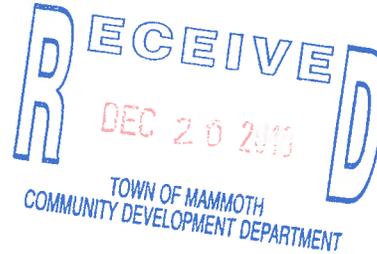


- 3. RESPONSES TO COMMENTS FROM DAVE SINGLETON, NATIVE AMERICAN HERITAGE COMMISSION (NAHC), DATED DECEMBER 24, 2010.**
- 3-1 The commenter identifies and references various CEQA provisions and guidelines related to the protection of historic resources; no response necessary.
- 3-2 The commenter states that the NAHC performed a Sacred Lands File (SLF) search and that Native American Cultural Resources were not identified within one-half mile of the Area of Potential Effect (APE), as determined by the NAHC. The commenter notes that there are cultural resources present in close proximity to the APE; see response 3-4 below.
- 3-3 The NAHC recommends early consultation with Native American tribes in the area. The Town mailed the IS/MND to the NAHC's recommended list of culturally affiliated tribes and interested Native American individuals, and did not receive any comments or responses from the Native American tribe contacts on this list.
- 3-4 Trans-Sierran Archaeological Research (TSAR) conducted a cultural resources assessment for the Project, which included a records review of the California Historic Resources Information System (CHRIS), National Register of Historic Places Index, and Office of Historic Preservation Directory of Properties, as recommended by the NAHC. Cultural Resources are discussed in Section 4.5 and the Cultural Resources study is provided in Appendix B of the IS/MND.
- 3-5 Please see Response to Comment 3-3.
- 3-6 Mitigation Measures CUL-2 and CUL-3 address accidentally discovered archeological resources and human remains consistent with the Public Resources Code and Health and Safety Code.
- 3-7 The NAHC describes laws related to confidentiality and the Public Records Act; no response necessary.
- 3-8 Please see Response to Comment 3-3. The Project does not include an electric transmission corridor.
- 3-9 Please see Response to Comment 3-6.



DEPARTMENT OF FISH AND GAME

Inland Deserts Region (IDR)
407 West Line Street
Bishop, CA 93514
(760) 872-1171
(760) 872-1284 FAX



December 10, 2010

Ms. Jessica Morriss
Town of Mammoth Lakes
P.O. Box 1609
Mammoth Lakes, CA 93546

**Subject: Terry Plum Vesting Tentative Parcel Map and Use Permit 10-001
State Clearinghouse Number: 2010122005**

Dear Ms. Morriss:

The Department of Fish and Game (Department) has reviewed the Draft Initial Study and Mitigated Negative Declaration (ISMND) for the above mentioned project relative to impacts to biological resources. The Department is providing comments as the State agency which has statutory and common law responsibilities with regard to fish and wildlife resources and habitats. California's fish and wildlife resources, including their habitats, are held in trust for the people of the State by the Department (Fish and Game Code §711.7). The Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and the habitats necessary for biologically sustainable populations of those species (Fish and Game Code §1802). The Department's fish and wildlife management functions are implemented through its administration and enforcement of Fish and Game Code (Fish and Game Code §702). The Department is a trustee agency for fish and wildlife under the California Environmental Quality Act (CEQA) (see CEQA Guidelines, 14 Cal. Code Regs. §15386(a)). The Department is providing these comments in furtherance of these statutory responsibilities, as well as its common law role as trustee for the public's fish and wildlife.

4-1

The Town of Mammoth Lakes, identified as Lead Agency, has prepared an ISMND for the proposed project (Project), which is part of the Bluffs Subdivision (1995 Environmental Impact Report). The Project consists of subdividing one (1) parcel into four (4) parcels for purposes of single family home development.

The Department offers the following comments and recommendations:

The Lead Agency, via Resources Concepts, prepared a Biological Report (ISMND Attachment A) for the Project. The 'Animals' table on page 5 of the Biological Report identifies the potential for occurrence of Northern Goshawk as 'Potential Incidental Fly-over' and Great Gray Owl as 'Not Likely'. Attachment A of the Biological Report includes species information to support the 'potential for occurrence' conclusion statements. Northern Goshawk, a

4-2

California Species of Concern, and Great Gray Owl, a State Endangered species, are known to occur in the vicinity of the Project site (California Natural Diversity Data Base) and Northern Goshawk has been observed nesting on nearby Valentine Reserve ('Birds Of Valentine Camp' December 2007 - <http://vesr.ucnrs.org/pages/valcampbirds.html>). Goshawks are known to reuse nest sites or make new nests nearby old ones, so it's likely goshawks continue to utilize the area. The species information for goshawk in Attachment A conclude, "*There is potential habitat for northern goshawk in nearby forest habitat and the proposed project area could occasionally be flown over while foraging. Northern goshawk may occasionally fly over the proposed project area from nearby forested areas.*" This statement, goshawks may fly over the Project site while foraging, is unclear and does not affirm whether or not goshawks may forage on the Project site, nor does it support or explain the frequency of use ('occasionally' fly over).

Goshawks have a home range extending (no less than) seven (7) miles from nest sites and are considered 'habitat generalists' in regard to foraging. Goshawks hunt and take prey on the ground, on vegetation and in the air and their prey include species such as ground squirrel, rabbit, songbird, and grouse that can be found in non-forested habitats.¹ As such, there is no correlation between the known *foraging habits* of goshawks and the Biological Report conclusion that there is the potential for incidental fly over. Additionally, the photographs of the Project site (Biological Report pages 8, 9 and 10) depict appropriate (forest edge/non-forested) foraging habitat for goshawk. Generally, the Mammoth Lakes area provides foraging habitat for goshawks.

Similarly, Great Gray Owls are also forest dependent nesters, but utilize forest edge and open habitats for foraging and often perch on lone trees, fence posts and poles. In the southern part of its range, Great Gray Owl primarily hunts vole and gopher², but they also hunt squirrel, rabbit, mice, rats, shrew, and sometimes birds (crows, ducks, grouse). These prey species are found in open areas (forest clearings) with scattered trees and shrubs used for perching³. As stated above for goshawk, there is no correlation between the known *foraging habits* of Great Gray Owls and the Biological Report conclusion (page 13), this time stated definitively, "*There is no potential nesting or foraging habitat for great gray owl within the proposed project area.*"

The Department concludes, while Northern Goshawk and Great Gray Owl may not be directly impacted by the proposed Project, and concurs that the Project area does not provide *nesting habitat* for either raptor species, the Biological Report prepared in support of the ISMND has incorrectly characterized their foraging habitat requirements. As a result, the

¹ McGrath, M. T., *et al.* 2003. Spatially explicit influences on Northern Goshawk nesting habitat in the interior Pacific Northwest. *Wildlife Monographs* 154:1-63.

² McGrath, Bull, E.L., M.G. Henjum and R.S. Roshweder, 1989. Diet and Optimal Foraging of Great Gray Owls. *The Journal of Wildlife Management* Vol. 53, No.1.

³ Bull, E.L. and M.G. Henjum. 1990. Ecology of the Great Gray Owl, Gen. United States Department of Agriculture Forest Service Pacific Northwest Research Station, Portland, Oregon, Technical Report PNW-GTR-265:1-63.

ISMND conclusion on page 4-10, "...that the Project site is unlikely to provide habitat for the northern goshawk and the great gray owl due to a lack of forested area; however, the report notes that there is a potential for these species to fly over the Project site while foraging because there is forested area nearby." is both incorrect and unsupported by evidence in the record.

4-2

The Department further concludes, based on evidence in the record and known foraging habitat requirements, the Project site provides *foraging habitat* for both species and that indirect impacts resulting from loss of foraging habitat may occur. Additionally, given that this Project is part of a larger development, the Department requests that this information become part of the record and greater care is taken to characterize raptor use of the area as future Bluff Subdivision parcels are proposed for development.

4-3

Thank you for this opportunity to provide input for the proposed Project ISMND. Questions regarding this letter and further coordination on these issues should be directed to Ms. Debra Hawk, Environmental Scientist, at (760) 872-1126.

Sincerely,



Brad Henderson
Acting Deputy Regional Manager

CC: CHRON File
State Clearinghouse



4. RESPONSES TO COMMENTS FROM BRAD HENDERSON, CALIFORNIA DEPARTMENT OF FISH AND GAME, DATED DECEMBER 24, 2010.

- 4-1 The commenter identifies the Department of Fish and Game's (DFG) role and responsibilities and describes the proposed Project; no response necessary.

The Town contracted with Resource Concepts, Inc. (RCI) to conduct a site specific biological review for the Project site and surrounding property and review and determine the applicability of and conformance with the impact analysis and mitigation measures identified in the Environmental Impact Report for the Bluffs subdivision, of which the subject property is a part.

In preparing the Biological Resources review, RCI completed a search of the California National Diversity Database (CNDDDB) to update the list of any known occurrences of special status plant and animal species or critical habitats with potential to occur within the vicinity of the Project site. A list of species was compiled from the CNDDDB for the Mammoth Mountain, Bloody Mountain, Old Mammoth and Crystal Crag USGS 7.5 minute quadrangles and was confirmed by the California Department of Wildlife. RCI also consulted with the US Fish and Wildlife Service, who reviewed species records and did not find any federally listed, proposed, or candidate species or critical habitat within the vicinity of the Project site.

On September 8, 2010, two RCI biologists completed a detailed review of habitat requirements and a field review of the Project site and vicinity, including the area studied in the Bluffs EIR, in reference to the potential species list compiled through the CNDDDB. The findings of the biological review are discussed in Section 4.4 and the Biological Resources Report is included in Appendix A of the IS/MND.

- 4-2 The commenter states that, "The department concludes, while Northern Goshawk and Great Grey Owl may not be directly impacted by the proposed Project, and concurs that the Project area does not provide *nesting habitat* for either raptor species, the Biological Report prepared in support of the IS/MND has incorrectly characterized their foraging habitat requirements." The DFG also states that the "Project site does provide foraging habitat for both species and that indirect impacts resulting from loss of foraging habitat may occur."

An addendum to the Biological Resources Report has been prepared to respond to the comment letter from DFG and is provided in Appendix A of this document. The addendum reflects the DFG's conclusion that the Project site does not provide nesting habitat for the Northern Goshawk and Great Grey Owl, but does provide foraging habitat for both species, and that indirect impacts from loss of foraging habitat may occur. Page 4-10, paragraph 2, has been revised to reflect these conclusions:

As shown in Table 2, the majority of potential animal species identified through the CNDDDB do not have a potential for occurrence on the Project



site, as determined through the biological review conducted by RCI, because the required habitat for each species is not present on the site. Also, while pika and Sierra marten were identified in the Bluffs EIR project area, the RCI study determined that there is no potential habitat for these species on the Project site since there are no riparian areas, meadows, or boulder outcrops. For this reason, there is also no potential for Mt. Lyell Shrew. Also determined through the biological review is that the Project area does not provide nesting habitat for either the Northern Goshawk or Great Grey Owl, but that the Project area does provide foraging habitat for both species and that indirect impacts resulting from loss of foraging habitat may occur ~~site is unlikely to provide habitat for the northern goshawk and the great grey owl due to a lack of forested area; however, the report notes that there is a potential for these species to fly over the Project site while foraging because there is forested area nearby.~~

The addendum to the Biological Resources Report also notes that any potential impacts to these species will be less than significant with implementation of the established mitigation measures. Mitigation Measures BIO-1 through BIO-11 are included in Section 4.4 of the IS/MND to minimize impacts to all biological resources to a less than significant level, including the Northern Goshawk and Great Grey Owl. These mitigation measures include restrictions on construction hours, required limits of disturbance, guidelines for revegetation and landscaping, lighting restrictions, and grading requirements. Mitigation Measure BIO-8 was amended to further reduce potential impacts to biological resources resulting from major construction activities, particularly for mule deer, Great Grey Owl, and Northern Goshawk.

BIO-8: To reduce impacts on mule deer, Great Grey Owl, and Northern Goshawk, construction activities shall be scheduled to minimize disturbance to migratory deer and nesting/fledgling raptors, that is, not during the spring and fall migration/holding periods. Major construction activities (e.g. earthmoving, paving, extensive exterior building work, etc.) shall be scheduled between November 1 – April 1 and ~~June 1~~ August 1 – October 1.

This revised Mitigation Measure is included in the Mitigation Monitoring and Reporting Program in Chapter 3.0.

- 4-3 The commenter requests that the information become part of the record and that care should be taken to characterize raptor use in the area as future Bluff Subdivision parcels are developed. The information is included as part of the record in the Response to Comments Document and has also been included in the Town's Bluffs Subdivision records. All future development within the Bluffs subdivision shall adhere to the mitigation measures established in the Bluffs Subdivision EIR.



Mammoth Community Water District
Post Office Box 597
1315 Meridian Blvd.
Mammoth Lakes, CA 93546
(760) 934-2596

December 23, 2010

Via E-mail

Town of Mammoth Lakes
Community Development Department
Jessica Morriss, Transportation Planner
P.O. Box 1609
Mammoth Lakes, CA 93546

Subject: Comments on the Proposed Mitigated Negative Declaration for Vesting Tentative Parcel Map and Use Permit 10-001 Project

Dear Ms. Morriss,

The Mammoth Community Water District (District) would like to take this opportunity to comment on the proposed Initial Study/Mitigated Negative Declaration (IS/MND) for the Terry Plum Vesting Tentative Parcel Map and Use Permit 10-001 Project, issued on November 29th 2010. In July 2010, in response to the Town's circulation of a draft Tentative Parcel Map, the District sent the Town a letter concerning Mr. Plum's proposed lot line adjustment and proposed Tentative Parcel Map. This earlier map included a District access easement for operation and maintenance of the water and wastewater facilities needed to serve the proposed homes, and for access to the adjacent USFS land, on which are located several District groundwater wells operated under federal Special Use Permit (10m, 11, 11m, and 12m). In addition, Well 10 is located in the south-west corner of the private Snowcreek golf course parcel, on a district easement, but is most readily accessed through the adjacent federal parcel.

5-1

The USFS parcel begins at the south end of the planned 10-ft wide paved multi-purpose trail, as shown in the IS/MND exhibits. Although not labeled in the exhibit, it is assumed that this future 10 ft easement will be granted to the Town. The District easement for access to the adjacent USFS parcel, following this same future paved path alignment, has been removed in the new map issued with the IS/MND, which removal will severely impact the District's ability to reliably access and maintain its wells located on the adjacent federal parcel. For the reasons addressed below, the proposed project without providing such access will have significant adverse effects on public services and utility systems, namely the community's water supply.

The District has used the existing dirt road through the project property, extending from the end of Tamarack St south to the federal parcel's northern boundary, to access its wells for over 25 years. Such access is vital to the District's ability to operate, repair, maintain and manage its wells. Well 10 is an existing principal District production well. Wells 10m, 11m and 12m are monitoring wells used to obtain

5-2

important water quality and water level data. Well 11 is a potential production well intended to meet in part the community's future water needs.

5-2

There is no other feasible access to these wells available, as the current access accommodates the class of vehicle needed for well bore maintenance and major repairs, such as pulling a pump, as well as being more practical for winter access if snow removal efforts are required. Such access is particularly critical in the winter in the event that it is necessary to repair Well 10 as it represents an integral part of the District's winter water supply. Any extended loss of the use of Well 10 could materially disrupt the community supply. The IS/MND failed to consider any of these potential significant adverse effects stemming from the proposed project's removal of the District's historic access off of Tamarack Street.

These existing production and monitoring wells, and any future production wells, such as Well 11, are an important component of the community's current and future water supply and management infrastructure. As noted in the IS/MND regarding the process and basis for findings under Section 3, *"All answers must take account of the whole action involved, including off-site as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts."* The absence of the needed District easements will impact the utilization of existing water supplies, the ability to monitor critical groundwater resources, and the ability to develop planned future water supplies to meet the Town's General Plan build-out projections. This in turn is likely to impact the conclusions of future water supply / reliability analyses, such as the pending Urban Water Management Plan update in 2011. These potential significant impacts can be mitigated by providing the District with access for its utility service vehicles on the 10-foot wide, paved multi-use path proposed in the project.

5-3

The proposed IS/MND describes that the non-motorized public access easement is consistent with the 1991 Town of Mammoth Lakes Trail System Plan. This information was repeated in the Town's project description for the Trails System Master Plan. Although these are separate projects, they share the same potential significant impact of limiting the District's ability to maintain, operate and monitor our wells. Although not under the District's area of responsibility, it is our understanding that the USFS and Town also will need long-term motorized access across the subject property to construct and maintain both the Mammoth Meadows restoration project and the future trails system. At the November 15th meeting among the Town, MLFD, and the District, the need to revise the draft conditions of approval to include a 16-ft wide emergency access up to the USFS parcel was identified. Therefore, a consistent approach to address the District's easement needs also would meet the needs of these other important public uses.

For your reference, attached is an evaluation by our legal counsel on the Town's ability to require an easement on the Plum property as a condition of approval of the parcel map. The attachment includes a description by District staff on the historic use of the southern end of Tamarack Street to access the groundwater wells.

The District requests that the project description, Section XVI Utilities and Service Systems, second paragraph, be amended to make clear that the District's will-serve letter, dated April 28, 2010, describes

5-4

water supply for the project as currently available; however the District does not guarantee any priority or reservation of capacity. Permits for water and sewer services are issued on a first-come, first-served basis and only to the extent capacity is deemed available at the time permit applications are received.

The District is proud to serve the community to the best of our abilities. Well operations and maintenance, and potential new well development are vital public services to supply water to the community. Inclusion of an access easement to District wells should be incorporated into this project, helping meet a range of important public service needs, including fire protection, recreation, USFS lands management, and community water supply.

5-4

Thank you for your consideration of our comments on this IS/MND. District staff is available to discuss our comments. Please contact me if you have any questions or wish to schedule a meeting.

Sincerely,



Irene Yamashita
Environmental Specialist and Public Affairs

Enclosure: Memorandum from Stephen Siptroth to Greg Norby, December 15, 2010 (with attachment)

C: Jon Regelbrugge, Mammoth Ranger Station District Ranger
Mr. Terry Plum

MEMORANDUM

To: Greg Norby
From: Stephen Siptroth
Re: Town's Ability To Require The Dedication Of An Easement In The Plum Property As A Condition Of Approval Of Parcel Map
Date: December 15, 2010

ISSUE RESEARCHED

May the Town of Mammoth Lakes (the "Town") condition the approval of Terry Plum's parcel map for his property (the "Property") on the dedication of an easement in favor of the Mammoth Community Water District (the "District") for access to the District's wells?

CONCLUSION

Yes. The District has a legitimate public purpose to continue accessing its wells in order to ensure a safe and reliable supply of water for its current and future customers. The proposed dedication is necessary because without an easement to access its water supply and monitor wells, the development of the Property could result in the District being unable to continue to access those wells. The proposed dedication therefore meets the nexus requirement that the Supreme Court established in *Nollan*. As long as the easement is sufficient to allow District personnel and vehicles to access the water supply and monitor wells, the easement should be determined to be roughly proportional to the impact of the project under the Supreme Court's decision in *Dolan*. The Town therefore is able to require Mr. Plum to dedicate an access easement in favor of the District in his Property as a condition of approving the parcel map.

DISCUSSION

A. Factual Background

The District maintains water supply and monitor wells on land that is owned by the U.S. Forest Service. In order to access those wells, the District has traveled across the Property (see attached memorandum of Karl Schnadt, the District's Operation Superintendent, summarizing the District's historical access over the Plum property); and there is no other reasonable means of accessing the wells, except by traveling across the Property.

Mr. Plum applied to the Town for a parcel map, which, if approved, would subdivide the Property and allow it to be developed. The Town is processing Mr. Plum's parcel map application and is conducting environmental review related to that application. The Town will require Mr. Plum to dedicate a 10-foot non-motorized public access easement and a 16-20 foot emergency access easement to the Town as conditions of application approval. The District

requested that the Town also require Mr. Plum to dedicate an access easement to the District so that the District can continue to access its water supply and monitor wells. The Town's staff, however, responded to District staff that, based on legal advice that it obtained from the Town's attorneys, the requested dedication does not have the required nexus to Mr. Plum's Project.

B. A Public Agency May Require A Dedication If The Dedication Has A Nexus To The Impacts Of The Project And Is Roughly Proportional To That Impact

1. A Nexus Must Exist Between The Dedication And The Impacts Of The Project

In *Nollan v. California Coastal Commission*, the United States Supreme Court considered whether the California Coastal Commission could condition approval of a two-story beachfront home subject to a dedication of a public access easement where the identified impact of the building was obstruction of an ocean view and not obstruction of public beach access. (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825, 839.) The Supreme Court's decision explained that conditions of development must bear some nexus to the identified impact for which the condition is imposed. (*Id.*, p. 836.) As the Supreme Court's decision explained, without such nexus, the required dedication becomes more similar to governmental extortion. (*Id.*, pp. 836, 839.) Indeed, "[i]t was this absence of a link between the permit condition and the commission's purported public purpose for requiring it that made the [dedication] a taking." (*Ehrlich v. City of Culver City* (1996) 12 Cal. 4th 854, 870.)

The Supreme Court's decision in *Nollan* establishes that the type of dedication must address the same type of impact that is expected to be caused by the proposed development. (See *Ocean Harbor House Homeowners Assn. v. California Coastal Com.* (2008) 163 Cal.App.4th 215, 233 (stating, "a fee to purchase another beach for public recreation has a logical tendency to mitigate loss of recreational use on the beach at the complex"); *State Route 4 Bypass Authority v. Superior Court* (2007) 153 Cal.App.4th 1546, 1558.)

2. The Purpose Of The Dedication Must Be Roughly Proportional To The Impacts Of The Project

While the Supreme Court's decision in *Nollan* explained that a nexus must exist between the dedication and the impact of the proposed project that necessitates the need for the dedication, the Supreme Court did not specify in that decision the degree of connection that must exist in order to find such a nexus. In *Dolan v. City of Tigard*, the Supreme Court considered whether a city could require a landowner to dedicate part of her property for storm drainage along a creek on the property and dedicate an additional 15-foot strip of land for a pedestrian and bicycle pathway. (*Dolan v. City of Tigard* (1994) 512 U.S. 374, 379-380.) In its opinion, the Supreme Court explained that while the City's required dedication of land for storm drainage purposes may have been legitimate, its required dedication for greenway purposes was not. The Supreme Court clarified that the required dedication must be "roughly proportional" to the impact of the project, but that precise mathematical evaluation was unnecessary. (*Id.*, p. 391.) The Supreme Court explained that the City failed to explain why a public greenway, as opposed to a private one, was required in the interest of flood control.

While in *Nollan* the Supreme Court established that the type of dedication must address the same type of impact caused by the development, in *Dolan* the Supreme Court explained that the dedication must be roughly proportional to the impact.

C. The District's Proposed Dedication Of An Easement To The District To Allow It To Access Its Wells Meets The *Nollan* "Nexus" And *Dolan* "Rough Proportionality" Requirements

As explained above, a dedication must address the impacts of the development and the dedication must be roughly proportional to the impacts. If the Town were to approve a parcel map for Mr. Plum's Property, such parcel map would provide Mr. Plum a vested right to develop the Property in a manner that could prevent the District from being able to access its wells. The District therefore requested that the Town require Mr. Plum to dedicate an easement in favor of the District to allow the District to continue to access its wells.

The District has a legitimate public purpose in being able to continue accessing its wells in order to ensure a safe and reliable supply of water for its current and future customers. The proposed dedication is an easement to access District wells, which is proposed because the development of the property could deny such access to the District. The proposed dedication is the type of dedication that would address the type of impact for which the dedication is proposed. Further, the dedication is necessary because without an easement to access its water supply and monitor wells, the development of the Property could result in the District being unable to continue to access those wells. Indeed, the District has no other reasonable way of accessing the wells, except by traveling through the Property. The proposed dedication therefore meets the nexus requirement that the Supreme Court established in *Nollan*. As long as the easement is sufficient to allow District personnel and vehicles to access the water supply and monitor wells, the easement should be determined to be roughly proportional to the impact of the project under the Supreme Court's decision in *Dolan*.

The Town therefore is able to require Mr. Plum to dedicate an access easement in favor of the District in his Property as a condition of approving the parcel map for the Property. The Town would be able to make the following findings to support the dedication: (1) a sufficient nexus exists between the dedication and the impact of development on the District's ability to continue to access its wells; (2) the dedication is of the type that would be required to address the type of impact for which the dedication is proposed; and (3) the dedication is limited so that it is roughly proportional to the potential impact of the development of the Property on the District's ability to access its wells. The District could very easily work with the Town to prepare such findings, which the Town could rely on to support its requirement of a dedication of an easement in favor of the District to access the District's water supply and monitor wells.

Memo

Date: 12/21/2010
To: Steve Kronick (MCWD counsel)
Cc: Greg Norby, John Pedersen
From: Karl Schnadt (MCWD Operations Superintendent)
RE: Access to Wells 10, 10 (m), 12 (m), 11, 11(m)- Via the Dirt Road at the End of Tamarack Street

Steve,

In response to your request I would like to summarize District use of the dirt road located at the end of Tamarack Street that has been used to access District wells 10, 10 (m), 11, 11(m) and 12 (m).

I started working for the District in 1986 as a meter reader. I would access well 10 on occasion to help with maintenance after its construction in 1988. During that time period there was a barbed wire stock gate across the road that was closed when there were horses grazing in the area. Otherwise, the gate would be opened. There was never any sign that indicated that the area was private or that access was not allowed. From my initial employment with the District until around 2000, various District employees accessed the wells for maintenance, repair and monitoring purposes. They would use the dirt road weekly in the summer months and monthly during the winter.

As time went on, I became more involved with measuring the monitor wells. By the year 2000, my job responsibilities changed to include monitoring all of the District production and monitoring wells. At that time I accessed all of the District wells (including wells 10, 10 (m), 11, 11(m) and 12 (m) on a weekly basis in the summer months and monthly during the winter. During the summer, I would typically drive down the dirt road from the end of Tamarack Street all the way to well 11 to collect the well level data from wells 10, 10 (m), 11, 11(m), and 12 (m). As I remember during this time period, stock was no longer kept in the area so the gate was always open. Around 2005 my job duties changed again and the well monitoring responsibilities were transferred to other personnel; however, I continued to work directly with or supervise the people that were then collecting the well data from the meadow area. They continued using the dirt road weekly in the summer and monthly in the winter to access the wells. There has never been any restriction to the road by either gate or signage.

K.S.



5. RESPONSES TO COMMENTS FROM IRENE YAMASHITA, MAMMOTH COMMUNITY WATER DISTRICT, DATED DECEMBER 23, 2010.

- 5-1 The commenter states that during the initial review of the proposed project, the draft tentative parcel map showed an access easement being reserved for the benefit of the Mammoth Community Water District (MCWD) for operation and maintenance of the water and wastewater facilities that would serve the proposed home sites, as well as an access easement to the adjacent United States Forest Service (USFS) lands for access to various MWCD wells on the public land and MCWD Well 10, which is on the neighboring Snowcreek golf course. The commenter states that the current proposed tentative parcel map does not include an easement for MCWD to access the USFS lands and that it is a concern of MCWD. The comments are acknowledged; no response necessary.
- 5-2 The commenter describes the historic use by the MCWD of the subject private property to access Well 10 on the Snowcreek golf course and Wells 10m, 11m, and 12m on the USFS lands south of the subject property. The historic use of access over the subject property is acknowledged and it is noted that access was with the knowledge and permission of the property owner; no response necessary.
- 5-3 The commenter discusses the need for MCWD's continued access over the subject private property to the various Wells and refers to the memo from MCWD's legal counsel (attached to MCWD's comment letter) discussing the legal authority for the Town of Mammoth Lakes to require the dedication of an easement over the subject property to continue that access.

The benefit to MCWD of having the subject easement is acknowledged. In addition, the following response has been provided by the Town's special counsel regarding the Town's legal authority to impose an exaction requiring the subject access easement.

The Town's legal ability to require the subject access easement is limited by the Takings Clause of Fifth Amendment of the United States Constitution. That provision prohibits the Town from taking private property for a public use without just compensation. Based on judicial interpretations of that Constitutional provision, an exaction requiring dedication of an easement over private property as part of the approval of a development project is permitted only if both the *Nollan* "nexus" and *Dolan* "rough proportionality" requirements established by the United States Supreme Court can be met.

In general, special counsel agrees with MCWD's attorney regarding whether the *Nollan* requirement of a "nexus" between that dedication of the subject easement and a legitimate governmental purpose could be met. The services MCWD provides the community are vital. Access necessary to provide those services creates the legally required connection between a condition that would require dedication of an easement over the subject property and the legitimate governmental purpose of providing water to the community. In the instant situation, the "nexus" requirement may not clearly be met because staff has been provided information indicating there are means to access Well 10 over other property, *albeit*, access over the subject property might be more



desirable. However, based on the conclusion below regarding “rough proportionality,” reaching a conclusion on the “nexus” issue would not be controlling in any event. [A discussion of the existing access is provided in Appendix B of this document, which was prepared as an agenda item for the MCWD Board of Directors for their September 16, 2010 meeting. The agenda item states, “*The District typically accesses these facilities from a mix of easements through Snowcreek V housing, the Snowcreek Golf Course, easements off of Woodcrest [Trail]...*”]

Special counsel does not agree the *Dolan* requirements of “rough proportionality” are met based on the facts pertaining to the subject vesting tentative parcel map. Under that “rough proportionality” requirement, the dedication of an easement over private property is valid as a condition imposed on a development project, only if that dedication is reasonably needed to mitigate impacts caused by that development project. In the current situation, while it is true MCWD will no longer have access to Well 10 over the subject property, which it has had for many years with the permission of the property owner, the approval of the proposed vesting tentative parcel map and the construction of 4 single-family dwellings do not result in increasing the need for that access or to provide MCWD’s services. Stated another way, under the facts as understood, the subject property owner has withdrawn its permission for MCWD to use the subject property to access Well 10. The Town can not now require that property owner to reissue that permission without payment of just compensation, unless the potential four new single-family dwellings that could be constructed pursuant to the vesting tentative parcel map created the need for access to the well over the subject property. It is clear access to Well 10 is of benefit to and needed by MCWD and that benefit and need exist with or without the subject development.

MCWD states lack of the desired access easement over the subject property will impact the utilization of existing water supplies, the ability to monitor critical groundwater resources and the ability to develop planned future water supplies to meet the Town’s General Plan build-out projections. As described above, that access (i) is and would be needed with or without the subject development and (ii) is currently available to serve those needs. Based on all the foregoing, as well as the information included in the MND and supporting documents, the conclusion in the MND determining no significant adverse environmental impact on water supply and service is likely to result from the subject project is supported by substantial evidence in the record.

MCWD retains authority to acquire the easement it desires. Such acquisition could be accomplished through continued negotiation with the property owner or through MCWD’s use of its eminent domain authority. In fact, it appears attempts to obtain that easement through negotiation have been unsuccessful to date due to the parties’ inability to agree on a few issues, including reasonable indemnification provisions. Perhaps further negotiation



could result in mutually agreeable and reasonable indemnification provisions to resolve this important community matter. However, using the land use authority of the Town to leverage such negotiation has been expressly prohibited by the *Nollan*, and *Dolan* cases, and their progeny.

- 5-4 The commenter requests that Section XVI Utilities and Service Systems, second paragraph, be amended to make clear that the District's will-serve letter, dated April 28, 2010, describes that water supply for the Project is currently available, but that the District does not guarantee any priority or reservation capacity and that permits for water and sewer are issued on a first-come, first-served basis. The requested revision has been made to page 4-38, paragraph 2, of the Utilities and Service Systems Section of the IS/MND as follows:

The Mammoth Community Water District (MCWD) owns, operates, and maintains the water treatment and delivery, and sewage collection and treatment systems for the Town. Water supply is provided by local surface water as well as groundwater sources. Surface water within the Mammoth Basin is generally supplied by snowmelt. In 2006, based on actual water supply, about 67 percent of potable water for the community came from surface water diverted from the Mammoth Creek watershed and 33 percent came from groundwater pumped from wells, located within Town boundaries. When lower than normal precipitation years are experienced, the use of groundwater is increased, as less surface water supply is available. As growth in the community occurs, the District will become more dependent on the use of groundwater supplies to meet future increased demand for water. The MCWD has water entitlements from Mammoth Creek for domestic uses, storage rights in Lake Mary, and operates eight groundwater production wells within the MCWD service area. MCWD ~~has~~ provided a "will-serve" letter to the Town of Mammoth Lakes on April 28, 2010, which indicates that water supply and wastewater service capacity for the Project is currently available, but that the district does not guarantee any priority or reservation capacity and that permits for water and wastewater service are issued on a first-come, first-served basis. Therefore, the Project will apply for all necessary permits from the MCWD as required and water and sewer service capacity will be assessed at that time. ~~indicating if the proposed Project is approved and development of single-family homes on the approved parcels occurs, they will have sufficient water supply and wastewater capabilities to provide service to those homes.~~

LAW OFFICES OF TIMOTHY B. SANFORD

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TIMOTHY B. SANFORD
STEPHEN N. KAPPOS

December 28, 2010

Via Email: jmorriss@ci.mammoth-lakes.ca.us

Jessica Morriss
Transportation Planner
Town of Mammoth Lakes
Community Development Department
P.O. Box 1609
Mammoth Lakes, CA 93546

Re: Terry Plum Vesting Tentative Parcel Map and Use Permit 10-001 project

Dear Ms. Morriss:

Please be advised this office represents Stacey Bardfield, the owner of lots 11 and 12 of the Fairway Ranch subdivision, the subdivision that immediately adjoins the Plum property to the northeast. The purpose of this letter is to object on behalf of my client to the proposed Mitigated Negative Declaration for the above-referenced Plum project.

6-1

Briefly outlined, my client's objections are as follows:

- As the project has no legal access from Fairway Ranch, it must rely on Tamarack Street, a substandard street. The proposed mitigations to the impact of this project on Tamarack are inadequate. Further, the impacts have been inadequately studied. I might add that a smaller subdivision was proposed on this property by Bob Schotz in the 1990's and the project was prevented from going forward by the Town staff on the ground that the impacts on Tamarack Street could never be mitigated.
- The entire project is located in an avalanche area. One person has already been killed by an avalanche on this property in recent history. There is no way to mitigate this hazard. Further, the potential exacerbation of the avalanche hazard by the creation of the homes, roads and other improvements has not been adequately studied.
- The potential impact on underground water and springs on the property from this project have not been adequately addressed.
- The impacts on wildlife, and particularly deer migration, as a result of this project have not been adequately addressed.

6-2

6-3

6-4

6-5

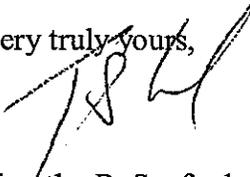
Jessica Morriss
Transportation Planner
Town of Mammoth Lakes
Community Development Department
December 28, 2010
Page 2

- The impact on surrounding neighborhoods from the public parking and public pedestrian access has not been adequately studied, particularly in light of the fact the need for such public parking and access, if any, has already been satisfied on the nearby Snowcreek property. | 6-6
- There have not been adequate studies of impacts on sensitive plants on the property. | 6-7
- There has been inadequate study of runoff impacts from the project. | 6-8

In sum, my client objects to this project and believes that if the project should go forward an EIR must be required. | 6-9

Thank you for your consideration of these views. Hopefully the Town will not allow this project to proceed and litigation can thereby be avoided.

Very truly yours,



Timothy B. Sanford

cc: Client

TBS:pmc

(bardfield\ltrs\morriss122810)



6. RESPONSES TO COMMENTS FROM TIMOTHY B. SANDFORD, LAW OFFICES OF TIMOTHY B. SANFORD, DATED DECEMBER 28, 2010.

6-1 The commenter states that his office represents a nearby homeowner, who objects to the proposed Project; no response necessary.

6-2 The commenter notes that Project accesses Tamarack Street, which is a substandard street and states that the impacts related to this have been inadequately studied and the proposed mitigations are inadequate. The commenter notes that a previous subdivision project was proposed for the property and that Town prohibited the project from moving forward on the grounds that it was not possible to mitigate the impacts related to the substandard street access.

Sections 4.8 and 4.11 of the IS/MND discuss potential emergency access and transportation and traffic impacts related to Tamarack Street as a substandard street. The Town of Mammoth Lakes Town Council adopted Council Resolution 09-64, which approved Public Works Standard Plan 008-0, Policy for Development of Substandard Streets, on September 16, 2009. The policy and approving resolution, which are provided in Appendix C, address development on substandard streets within the Town of Mammoth Lakes and is applicable to all substandard streets. The policy requires the dedication of right-of-way, snow storage-easements where applicable, street improvements along the property's street frontage, any improvements as required by the Fire District to improve emergency access, and other improvements as necessary and applicable.

The Project is required to widen the pavement on Tamarack Street in three areas to create turn-out locations, which will allow for safer passage of emergency vehicles and other vehicles on the roadway. The Project is also required to install one additional fire hydrant on Tamarack Street and two fire hydrants on the Project site. These improvements conform to Town standards and regulations for substandard streets and provide adequate access per the Town Public Works Department and the Mammoth Lakes Fire Protection District.

6-3 The commenter notes that the Project is located in an avalanche area and states that it is not possible to mitigate the hazard. The commenter notes that an individual has died as a result of the avalanche on the property in recent history and states that the future development of homes and related improvements on the property may potentially exacerbate the avalanche hazard.

The Project is indeed located in an avalanche hazard area, which is disclosed and described in section 4.8, Hazards and Hazardous Materials, in the IS/MND as well as in the Bluffs Subdivision EIR. The Bluffs Subdivision EIR included extensive avalanche hazard analysis (prepared by Luke Schwartkopf, Section N, *Avalanche Hazard Potential*), which included surveys of the bluffs area and identification of approximately 15 avalanche starting zone paths. Paths #1, #2, and #3, are located on the east facing slopes overlooking the Snowcreek Golf Course. The Project site lies principally within starting zone path #1 and a portion of the site lies within path #2. The Bluffs EIR documented some of the avalanche history in the Bluffs, including the deaths of "a recreation skier/snowboarder and his dog on December 30, 1992 when an avalanche was triggered by his walking up the slope from the



bottom.” According to the Bluffs Subdivision EIR, these deaths occurred in avalanche path #3, which is near, but does not appear to be on the Project site.

To reduce potential avalanche hazards to the future homes, occupants of those homes, and individuals who may be utilizing the proposed public access easement to the east of the homes (downslope), a series of mitigation measures have been included in the IS/MND and as conditions of Project approval. These measures were developed from the four separate avalanche hazard studies that were prepared for the Project site and/or adjacent property. These studies are provided in Appendix E of the IS/MND.

Additionally, a supplemental study was prepared by Arthur I. Mears in February 2011 to address the specific concern raised in this comment that activities related to the occupancy of the homes (heating, vibrations, etc.) may increase the potential avalanche hazard. Mr. Mears’ recent analysis and report confirms the previous findings and concludes that the Project, including development of the lower sites and the upper site, “...will not increase the avalanche hazard to adjacent lots or houses below the Bluffs...as a result of building heating, wind-drift effects, snow sliding from roofs, or any vibrations that may be associated with the use of these buildings during the snow and avalanche season.”

Mr. Mears states that his conclusions and analysis are supported by the following: (a) the proposed development is located approximately 300 – 1000 feet southeast of the avalanche starting zones; (b) this distance minimizes the effect of shock propagation through the snowpack (e.g. from roof slides) to the avalanche starting zones; (c) the avalanche paths support a timber cover that (i) inhibits slab fracture propagation and (ii) causes an uneven snow distribution under the tree canopy; (d) the uneven snow under the forest inhibits the formation of widespread and continuous weak layers (e.g. surface hoar, near-surface facets, continuous ice lenses) that would be needed for long slab fracture propagations; (e) any thermal effects near the buildings (e.g. from heating, solar reflections) occur immediately adjacent to the buildings.” The supplemental report, dated February 19, 2011, by Mr. Mears is provided in Appendix D of this document.

6-4 The commenter states that the potential impact on underground water and springs on the property by the Project have not been adequately addressed. As noted in Section 4.6, Geology and Soils, in the Preliminary Geotechnical Investigation provided in Appendix C of the IS/MND, groundwater was not encountered during the field investigation and it was determined that groundwater is unlikely to be encountered during site development due to the location of the site with regard to overall drainage patterns in the area. Additionally, the Biological Resources study, which included extensive field analysis as described in Section 4.4 and Appendix A of the IS/MND, did not identify wetlands or springs on the site.

6-5 The commenter states that the impacts to wildlife, and particularly deer migration, as a result of the Project have not been adequately addressed. Please see Response to Comment 4-1. The Biological Resources report, as discussed in Section 4.4 and Appendix A of the IS/MND addresses potential impacts to wildlife and vegetation resources on the Project site and surrounding area, including deer migration.

Mitigation Measures BIO-1 through BIO-11 have been established to reduce potential impacts to wildlife, including mule deer. As described in Response to Comment 4-2,



Mitigation Measure BIO-8 was amended to further reduce potential impacts to biological resources resulting from major construction activities, particularly for mule deer, Great Grey Owl, and Northern Goshawk.

BIO-8: To reduce impacts on mule deer, Great Grey Owl, and Northern Goshawk, construction activities shall be scheduled to minimize disturbance to migratory deer and nesting/fledgling raptors, that is, not during the spring and fall migration/holding periods. Major construction activities (e.g. earthmoving, paving, extensive exterior building work, etc.) shall be scheduled between November 1 – April 1 and ~~June 1~~ August 1 – October 1.

This revised Mitigation Measure and the other Biological Resource Mitigation Measures are included in the Mitigation Monitoring and Reporting Program in Chapter 3.0.

6-6 The commenter states that impacts related to the proposed public parking and public pedestrian access have not been adequately studied. The commenter suggests that the need for pedestrian access and parking in the area has already been satisfied on the nearby Snowcreek property.

As stated earlier, following the public review period, the proposed public parking area was reduced in size and scope from the original Project proposal studied in the Draft IS/MND, however the environmental analysis described in Section 4.15, Transportation and Traffic was not revised to reflect this change and therefore represents a conservative analysis. The original Project proposal included a public parking area with a maximum of six paved parking spaces (including one ADA space) intended to serve an existing trail across the property that has historically been used to access public lands south of the site. The proposed public parking area has been reduced in size to provide one ADA parking space only. No additional public parking would be provided on the site.

This change reduces the potential environmental impacts associated with the Project. As such, no additional analysis was necessary as no new or significant impacts in excess of what were previously analyzed would occur as a result of these changes. Therefore, the mitigation measures established in the Draft IS/MND, and as conditions of Project approval, are still applicable and valid.

The non-motorized public access easement will provide legitimate legal access for the public to access public lands in an area that currently has limited legal access to those lands. Additionally, the non-motorized public access easement that is proposed by the Project is consistent with the recommendations of numerous Town of Mammoth Lakes planning studies, including the adopted 1991 Town of Mammoth Lakes Trail System Plan, the 2009 Town of Mammoth Lakes Draft Trail System Master Plan, and the 2009 Sherwins Area Recreation Plan (SHARP), all of which aim to reduce overall vehicle trips in Town by providing an extensive system of pedestrian and recreational trails and all of which have identified the need for public access in this specific location.

6-7 The commenter states that there have not been adequate studies of impacts on sensitive plants on the property. Please see Response to Comment 4-1 and 4-2. The Biological Resources report, as discussed in Section 4.4 and Appendix A of the IS/MND addresses



potential impacts to wildlife and vegetation resources on the Project site and surrounding area.

- 6-8 The commenter states that there has been inadequate study of runoff impacts from the project. As noted in Section 4.9 of the IS/MND, the total area of disturbance related to future development will be limited by the RR zoning, which prohibits lot coverage greater than 30% (includes building footprint, walkways, driveways, decks, etc.), thus minimizing the potential for expansive paved areas that would contribute to additional runoff, effects on groundwater recharge, or effects on- and offsite drainage patterns.

A preliminary drainage study was prepared to analyze the effect of the Project on runoff and drainage both on and offsite. The preliminary drainage study is provided in Appendix E of this document. As noted in the IS/MND and in the preliminary drainage study, the Project will include drainage infrastructure designed to capture stormwater run-off from the Project and surrounding area, including a 3 to 4-foot wide drainage swale, a 36-inch retention pipe, and level spreader to disperse storm-water discharge. The final design and selection of drainage facilities will be determined during preparation of improvement plans. Drainage facilities shall be designed to handle the required runoff flows and shall adhere to the required criteria to sufficiently address safety, erosion protection, and water quality.

Compliance with the Town's adopted Storm Drainage Master Plan will be required of future development of the Project site, and a Stormwater Pollution Prevention Plan and a National Pollution Discharge Elimination System (NPDES) Construction Stormwater Permit will be approved by the Lahontan Region of the California Regional Water Quality Control Board, which develops and enforces water quality objectives and implementation plans that safeguard the quality of water sources in Mammoth Lakes and the region.

Mitigation Measure HWQ-1 has been established, which requires an Engineered Grading Plan be submitted and approved for all grading activities, as well as compliance with the NPDES requirements for construction projects, the MOU between the Town of Mammoth Lakes and Lahontan Regional Water Quality Control Board, and the Town Municipal Code.

- 6-9 The commenter states that project should require an Environmental Impact Report (EIR). The IS/MND has not identified any significant and unavoidable impacts and Mitigation Measures have been established that reduce potential impacts to a less than significant level. Therefore, preparation of an EIR is not required. The Mitigation Measures are included in Chapter 3.0, Mitigation Monitoring and Reporting Program.

Ms. Jessica Morriss, Transportation Planner
Town of Mammoth Lakes
Community Development
P.O. Box 1609
437 Old Mammoth Road, Suite R
Mammoth Lakes, California 93546

RE: Notice of Intent to Adopt/Notice of Availability for the Terry Plum Vesting Tentative Parcel Map and Use Permit 10-001 Initial Study/Mitigated Negative Declaration

1. Will the Town do an independent study of the avalanche zone not only of the project itself but could the occupancy (heating, snow removal equipment, etc) of these homes built in an avalanche zone cause an avalanche and would an avalanche in that area cause property damage to the currently existing homes in the neighboring subdivisions that have not been built to avalanche standards? | 7-1
2. Has there been or will there be an Environmental Study done on the site and the adjacent neighborhoods and does it include the disturbance of underground water and springs during the grading of the road which is adjacent to Fairway and Snowcreek Ranch and what assurance will town give those property owners that they will not have flooding caused by the grading and if they do who will be financially responsible for the remedy if it flooding does occur? | 7-2
3. Can equestrian access be combined with pedestrian access? I personally am afraid of horses and want to be assured that I will be safe if I have to share a trail with that large of an animal. | 7-3
4. Because this property borders Forest Service Land where wildlife exists will a study be done for the effects this property will have on deer migration, bear habitat and native area plants. | 7-4
5. Do the CC & R's for The Bluffs allow for a sub-division of the property? | 7-5
6. When and why did the APN numbers of the 22-400-11 and 22-400-12 change to 22-400-23 and 22-400-24. | 7-6
7. Have traffic studies been conducted on Tamarack and Old Mammoth Rd and will left hand turn lanes be added at all the intersections from Ranch Road to Tamarack? | 7-7
8. If the Town already owns a parking lot at Old Mammoth Rd / Tavern and has a shuttle system out to Old Mammoth area then why is there a need for public parking lot in a Single Family Residential neighborhood? | 7-8

Deanna Lantieri
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7. RESPONSES TO COMMENTS FROM DEANNA LANTIERI, DATED DECEMBER 28, 2010.

7-1 The commenter asks if the Town plans to prepare an independent study to assess the potential on-site and off-site avalanche hazards and/or impacts that may result from future occupancy of the single-family home sites once developed. The commenter is concerned with potential damage to neighboring homes that may not have been built to withstand an avalanche should an avalanche occur. Please see Response to Comment 6-3.

7-2 The commenter asks if an environmental study has been or will be performed for the site and the adjacent properties. The commenter asks if the study has or will include analysis of potential disturbance to underground water and springs that may occur during grading of the road. The commenter asks for the Town to assure neighboring property owners that there will not be flooding caused by grading and asks who is financially responsible should this occur.

The IS/MND, which addresses the direct, indirect, and cumulative environmental effects associated with the Project, as proposed, and includes a Project description, environmental checklist, and discussion focused on issues identified in the checklist, was prepared pursuant to the requirements of the California Environmental Quality Act (CEQA) (see Public Resources Code Section 21000 et seq.), as well as the State CEQA Guidelines (see Title 14 of the California Code of Regulations Section 15000 et seq.).

Please refer to Response to Comment 6-4 regarding underground water and springs.

Please refer to Response to Comment 6-7 regarding grading requirements and runoff. Section A preliminary drainage study was prepared to analyze the effect of the Project on runoff and drainage both on and offsite. The preliminary drainage study is provided in Appendix E of this document. As noted in Section 4.9 of the IS/MND and in the preliminary drainage study (Appendix E), the Project will include drainage infrastructure designed to capture stormwater run-off from the Project and surrounding area, including a 3 to 4-foot wide drainage swale, a 36-inch retention pipe, and level spreader to disperse stormwater discharge. The final design and selection of drainage facilities will be determined during preparation of improvement plans. Drainage facilities shall be designed to handle the required runoff flows and shall adhere to the required criteria to sufficiently address safety, erosion protection, and water quality. Mitigation Measure HWQ-1 is also included to reduce potential hydrology and water quality impacts to a less than significant level.

The assignment of financial responsibility should flooding occur and cause damage to neighboring properties is not an environmental issue considered under CEQA; comment noted.

7-3 The commenter asks if equestrian access can be combined with pedestrian access. Informal trail access through the property historically been used by equestrian users, as well as pedestrians and bicyclists, to access the USFS lands to the south of the Project site. As with any shared-use trail, the potential for conflict between users exists. However, shared trail use by equestrians, bicyclists, and pedestrians is common in many other jurisdictions, as well as the Mammoth Lakes region, particularly on USFS soft-surface trails. The easement



alignment, which is 10-feet wide, provides sufficient passing space and sufficient sight-distance to allow for necessary yielding to occur between users as recommended by the 2009 Town of Mammoth Lakes Draft Trail System Master Plan.

- 7-4 The commenter asks if a wildlife study will be prepared that examines the effects the Project may have on deer migration, bear habitat, and native area plants. Please see Response to Comments 4-1 and 4-2.
- 7-5 The commenter asks if the Covenants, Conditions & Restrictions (CC&Rs) for the Bluffs Subdivision allow for a sub-division of the property. Question noted; conformance and consistency with CC&Rs is not an issue considered under CEQA, nor a matter for regulation or enforcement by the Town of Mammoth Lakes. Regardless, Town staff conducted research on potential CC&Rs, which indicated that CC&Rs for the Bluffs subdivision were never adopted because of a lack of property owner approval.
- 7-6 The commenter asks when and why the Assessors Property Numbers (APN) 22-400-11 and 22-400-12 have changed to 22-400-23 and 22-400-24. Question noted; the APNs in question were reassigned by the Mono County Assessor's Office following approved lot line adjustments that occurred in 2003 under Lot Line Adjustment 03-03 and in 2009 under Lot Line Adjustment 08-01.
- 7-7 The commenter asks if a traffic study has been prepared for Tamarack Street and Old Mammoth Road. The commenter asks if left-hand turn lanes will be added to Old Mammoth Road at the intersections between Ranch Road and Tamarack Street.

Please refer to Response to Comment 6-5. Section 4.15, Transportation and Traffic, and Appendix D of the IS/MND describes potential traffic and transportation impacts to roadway capacity on Tamarack Street and Old Mammoth Road related to the proposed Project, including the proposed public parking and public access easement, which are intended to serve existing demand by recreational users who wish to access the nearby United States Forest Service (USFS) lands to the south of the Project site.

The traffic impact analysis determined that there are no roadway capacity impacts to Tamarack Street because the total estimated cumulative trips, including the Project (622 daily and 75 peak-hour trips), are well within the determined "livability" capacity for the roadway of 1,500 daily and 150 peak-hour trips, which is a capacity threshold that is commonly utilized in standard transportation engineering practice to represent the capacity of a local residential street. A peer-review, conducted by the Town's transportation consultant, LSC Transportation Consultants, Inc., concurred with the methodology and results of the analysis.

Also discussed in Section 4.15, given that future Project trips will utilize Old Mammoth Road to access Tamarack Street, the potential for roadway capacity impacts on this street was also reviewed. The capacity of Old Mammoth Road in the vicinity of Tamarack Street, which is functionally classified as a collector street, is approximately 6,000 to 8,000 vehicles per day. Existing volumes on Old Mammoth Road in the vicinity of Tamarack Street are approximately 1,600 vehicles per day and cumulative volumes without the Project are expected to be approximately 1,500 to 2,000 trips per day per the Town's traffic model.



Therefore, the roadway capacity impact to Old Mammoth Road is expected to be less than significant since there is sufficient capacity on Old Mammoth Road in the existing and cumulative conditions, with and without the Project.

A left-turn warrant analysis has been conducted to determine if a left turn lane on Old Mammoth Road at Tamarack Street is necessary, with and without the Project, based on standards established for two-lane roadways by the American Association of State Highway and Transportation Officials (AASHTO)¹. Primary access to the Project is provided via Tamarack Street from Old Mammoth Road.

Under the future cumulative condition, assuming that all vehicles entering Tamarack Street enter by turning left onto Tamarack Street from Old Mammoth Road, approximately 41 vehicles would conduct this turn during the peak hour (of these, approximately 11 of these trips are attributable to the Project).

The Town's traffic model projects that the cumulative two-way peak-hour traffic volume on Old Mammoth Road in the vicinity of the Project will be approximately 185 vehicles. If it is assumed that 75% of these vehicles are traveling westbound during the peak hour, then there would be approximately 139 vehicles traveling westbound. Therefore, the left-turning vehicles comprise approximately 30% (41/139) of the westbound traffic on Old Mammoth Road at Tamarack Street.

Per the AASHTO left-turn lane volume standards, for a two-lane roadway with a 40 mile per hour speed limit (the speed limit on Old Mammoth Road is 25 miles per hour in this location), low opposing traffic volume (less than 100 vehicles per hour), and 30% left-turning vehicles, there would need to be approximately 340 vehicles traveling westbound to warrant a left-turn lane.

Therefore, estimated cumulative traffic volumes on Old Mammoth Road and left-turning traffic onto Tamarack Street do not meet minimum thresholds for the installation of a left-turn lane on Old Mammoth Road onto Tamarack Street. Given that similar volumes exist at other intersections along Old Mammoth Road, and that these neighborhoods are largely built-out, it is unlikely that minimum volume standards for the addition of left turn lanes would be met under the cumulative condition.

- 7-8 The commenter asks why a public parking lot is necessary in a single-family residential neighborhood. Question noted; please see Response to Comment 6-5. The non-motorized public access easement will provide legitimate legal access for the public to access public lands in an area that currently has limited legal access to those lands. Additionally, the non-motorized public access easement that is proposed by the Project is consistent with the recommendations of numerous Town of Mammoth Lakes planning studies, including the adopted 1991 Town of Mammoth Lakes Trail System Plan, the 2009 Town of Mammoth Lakes Draft Trail System Master Plan, and the 2009 Sherwins Area Recreation Plan (SHARP), all of which aim to reduce overall vehicle trips in Town by providing an extensive

¹ American Association of State Highway and Transportation Officials, *A Policy on Geometric Design of Highways and Streets* (2001).



system of pedestrian and recreational trails and all of which have identified the need for public access in this location.

Ms. Jessica Morriss, Transportation Planner
Town of Mammoth Lakes
Community Development
P.O. Box 1609
437 Old Mammoth Road, Suite R
Mammoth Lakes, California 93546

RE: Notice of Intent to Adopt/Notice of Availability for the Terry Plum Vesting Tentative Parcel Map and Use Permit 10-001 Initial Study/Mitigated Negative Declaration

- | | |
|--|-----|
| 1. Will the Town do an independent study of the avalanche zone not only of the project itself but could occupancy (heating, snow removal equipment, etc) of these homes built in an avalanche zone cause an avalanche and would an avalanche in that area cause property damage to the currently existing homes in the neighboring subdivisions. | 8-1 |
| 2. Fairway Ranch Homeowners Association will demand the Town indemnify each property owner and to include the common area roads from property damage, liability, loss of equity or use that can be incurred at any time caused by change of zoning, avalanche, drainage grading, public parking, trespassing. | 8-2 |
| 3. Has there been or will there be an current 2010 Environmental Study done on the site and the adjacent neighborhoods and does it include the disturbance of <u>underground</u> water and springs during the grading of the road which is adjacent to Fairway and Snowcreek Ranch and what assurance will town give those property owners that they will not have flooding caused by the grading and if they do who will be financially responsible for the remedy if it flooding does occur? | 8-3 |
| 4. Do the CC & R's for The Bluffs allow for a sub-division of the property? | 8-4 |
| 5. When and why did the APN numbers of the 22-400-11 and 22-400-12 change to 22-400-23 and 22-400-24. | 8-5 |
| 6. FROA does hereby oppose the relocation of Tamarack St. | 8-6 |

Fairway Ranch Homeowners
PO Box 5038
Mammoth Lakes, CA 93546



**8. RESPONSES TO COMMENTS FROM FAIRWAY RANCH HOMEOWNERS,
DATED DECEMBER 29, 2010.**

- 8-1 Please refer to Response to Comment 6-3.
- 8-2 Issues of indemnification that have been raised are not environmental issues considered under CEQA; comment noted.
- 8-3 Please refer to response 7-2.
- 8-4 Please refer to response 7-5.
- 8-5 Please refer to response 7-6.
- 8-6 The commenter states that the Fairway Ranch Homeowners Association opposes the Project; no response necessary.

December 24, 2010

Ms. Jessica Morriss
Transportation Planner
Town of Mammoth Lakes
P.O. Box 1609
Mammoth Lakes, CA 93546

Re: Terry Plum Vesting Tentative Parcel Map and Use Permit 10-001 Project

To Ms. Morriss:

We own the property at 189 Woodcrest Trail and we oppose this project on various grounds.

1. The proximity of the road to our property. In Mr. Plum's design, the pedestrian walkway and the road borders our property line and likely violates reasonable setback codes in the city of Mammoth Lakes. Additionally, the road location, along with very high winds can cause snow white outs, slippery road conditions, etc., therefore, putting our family at risk with the road being so close to our front yard, our driveway and our backyard. Our children should be allowed to play outside without us worrying about cars careening downhill from the road above. 9-1

In addition, the proposed location of the pedestrian walkway runs immediately adjacent to the side of our home. This creates a huge invasion of privacy. I've seen roads built in front of homes where there is an adequate setback, however, never seen one run directly adjacent to a home's side. The side is where the master bedroom and bathroom are located. Allowing public access can create numerous issues. 9-2

We oppose public parking access on this road as it will increase traffic flow and further increase the risk to our property and life. 9-3

 2. We believe building a road above our property increases the risk of flooding and water damage as run-off tests during heavy rains and snow melt have not been properly analyzed. We believe water will flow off the street into our house, yard, and driveway regardless of drainage plans. 9-4
 3. Property values in the adjacent neighborhood will decline due to the impact of the location of the proposed residences, offsetting some of the tax increases and development fees earned by the city. 9-5
 4. The land plots should not be zoned for multiple single-family homes. We would like to see the legal documentation allowing this form of zoning. 9-6
- In summary, we view the following as potential legal issues: public parking on a private road, private road setbacks which directly impact nearby residents, multiple homes on a single lot which appears in direct contrast to other developments in this area of Mammoth Lakes, and Mammoth Lakes' liability for allowing building in an avalanche zone. 9-7

Sincerely,

Thomas J. and Jacqueline L. Ray



9. RESPONSES TO COMMENTS FROM THOMAS AND JACQUELINE RAY, DATED DECEMBER 28, 2010.

9-1 The commenter states they oppose the Project; no response necessary.

9-2 The commenter expresses concern with the proximity of the road to their property since it borders their property line. The commenter states that they believe this to be a violation of property setback regulations.

Town of Mammoth Lakes public roadway and driveway regulations and standards allow for the construction of such facilities within the setback of the property or properties being served if the driveway provides direct access to a garage (Municipal Code Section 17.16.150.E).

The Project is proposed to be accessed via an extension of Tamarack Street that will connect to the private driveway that will access the home sites. The extension of Tamarack Street, which will be a public roadway maintained by the Town, will transition to a private driveway. Only vehicles that need to access the home sites will be permitted to travel along the private driveway. Please refer to the exhibits provided in Appendix F, which depict the proposed extension and profile of Tamarack Street and the private driveway, as well as the non-motorized public access easement to USFS lands south of the Project. The private driveway will be constructed approximately six feet from the easterly property line. A landscape buffer will also be provided.

9-3 The commenter suggests that the roadway poses a safety issue in which vehicles may accidentally drive or slide down the roadway onto their property as a result of winter weather conditions. To reduce potential safety hazards associated with winter weather conditions (snow and ice on the roadway, as well as low visibility), the Tamarack Street extension would be required to be constructed to Town roadway standards and the private driveway would be constructed consistent with Town driveway standards, which restricts the grade of a driveway to 10% to prevent potential sliding.

Additionally, the elevation of the private driveway is to be equal to or lower than the elevation of the adjacent property along the eastern border of the site (beginning near Woodcrest Trail) and a 4-foot drainage swale and landscaped buffer will also be provided between the private driveway and the property line. It should also be mentioned that the roadway, as well as the private driveway, are to be constructed per the trail standards of the Americans with Disabilities Act, which also limits grades and cross-slopes so that wheelchair users can safely utilize the facility. Please refer to the exhibits provided in Appendix F, which depict the proposed extension and profile of Tamarack Street and the private driveway, as well as the non-motorized public access easement to USFS lands south of the Project.

9-4 The commenter suggests that the location of the roadway presents an invasion of privacy. Comment noted. The statement does not pose an issue considered under CEQA; no response necessary.



- 9-5 The commenter states that they oppose the proposed public parking area because it will increase traffic and further increase the risk to their property and life. Please refer to Response to Comment 6-5 and 9-3.
- 9-6 The commenter states that the roadway will create an increased risk of flooding and water damage. The commenter states that run-off and drainage impacts have not been properly analyzed. Please refer to Response to Comment 6-7.
- 9-7 The commenter suggests that property values of adjacent properties will decline, offsetting the tax increases and development fees of the city. Comment noted. The statement does not pose an issue considered under CEQA; no response necessary.
- 9-8 The commenter states that the land plots should not be zoned for multiple single-family homes and requests to see the legal documentation allowing this form of zoning. As discussed in the IS/MND, the Project proposes to subdivide one existing parcel into four parcels for the development of single-family homes, which is consistent with the property's Rural Residential (RR) zoning designation. The proposed lot dimensions and development density resulting from the proposed Project are consistent with that permitted in the RR zone, and with other existing neighboring development. The permitted density in the RR zone is 2.0 dwellings per acre. The Project proposes four dwellings on approximately 4.39 acres, for a density of approximately 0.91 dwellings per acre.
- 9-9 The commenter summarizes the above issues and also states that the Mammoth Lakes may be liable for allowing building in an avalanche zone. Please see above comments and refer to Response to Comment 6-3 for a discussion of potential avalanche hazards. Issues of liability on behalf of the Town are not a consideration under CEQA; comment noted.



3.0 MITIGATION MONITORING AND REPORTING PROGRAM



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
AESTHETICS							
AES-1	Future structures will be required to adhere to the Town's Design Guidelines, which include standards for materials, color, and design that will result in buildings that are harmonious with the natural landscape and are visually unobtrusive. Additional review by the Planning Commission's Design Committee, in conjunction with a use permit application, will be required for future development of proposed Parcel 1 to ensure compliance with Municipal Code Section 17.16.040.C.8. as it relates to the mitigation of potential off-site visual impacts as described in the Bluffs EIR.	Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Review and Approval of Project Plans and Specifications for Parcel 1	Prior to Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Prior to Review and Approval of Use Permit for Parcel 1.	Community Development Department			
AES-2	All appurtenances (i.e. meters, roof vents, and electrical equipment) shall be screened or placed in areas that are not highly visible, where feasible.	Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Review and Approval of Project Plans and Specifications for Parcel 1	Prior to Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Prior to Review and Approval of Use Permit for Parcel 1	Community Development Department			
AES-3	The landscaping for each Project parcel, when developed, shall enhance the character of the on-site development and shall be compatible with, and complementary to, the natural environment in Mammoth Lakes and the surrounding region. All building sites and graded areas shall be revegetated to blend with existing native landscape consistent with firesafe requirements. Native plant materials shall be utilized whenever possible.	Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Review and Approval of Project Plans and Specifications for Parcel 1.	Prior to Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Prior to Review and Approval of Use Permit for Parcel 1	Community Development Department			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
AES-4	Existing trees and vegetation shall be preserved to the maximum extent possible. No live trees over six inches in diameter shall be removed without prior approval of the Community Development Director. As mitigation for tree removal, the Community Development Director may require replacement plantings. Required replacement shall not exceed a total trunk diameter equal to that removed and shall be limited to plantings in areas suitable for tree replacement.	Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Review and Approval of Project Plans and Specifications for Parcel 1	Prior to Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Prior to Review and Approval of Use Permit for Parcel 1; During Construction / Grading activity	Community Development Department			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
AES-5	Construction equipment staging areas shall use appropriate screening (i.e., temporary fencing with opaque material) to buffer views of construction equipment and material, when feasible. Staging locations and screening techniques shall be indicated on grading permit plans and shall be approved by the Community Development Department prior to permit issuance.	Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Review and Approval of Project Plans and Specifications for Parcel 1	Prior to Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Prior to Review and Approval of Use Permit for Parcel 1; During Construction / Grading activity	Community Development Department			
AES-6	All outdoor lighting related to the development of the Project parcels, including construction, shall comply with Municipal Code Section 17.34, which regulates light and glare. In addition, an outdoor lighting plan shall be submitted in conjunction with a use permit application for the future development of proposed Parcel 1 in accordance with Municipal Code Section 17.34.060.	Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Review and Approval of Project Plans and Specifications for Parcel 1	Prior to Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Prior to Review and Approval of Use Permit for Parcel 1	Community Development Department			
AES-7	All utilities shall be placed underground.	Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Review and Approval of Project Plans and Specifications for Parcel 1	Prior to Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Prior to Review and Approval of Use Permit for Parcel	Community Development Department			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
			1. During Construction / Grading activity; Prior to Issuance of Certificate of Occupancy				
AIR QUALITY							
AQ-1	In order to reduce emissions associated with both mobile and stationary sources (i.e., wood burning stoves and fireplaces), the Project shall adhere to the regulations contained in the Air Quality Management Plan (AQMP) and Particulate Emissions Regulations of the Town Municipal Code Section 8.30.	Review and Approval of Grading Plans and Specifications and/or Building Permit ; Community Development and Public Works Department Field Inspections	Prior to Project Grading Plan and Specification Approval; During Construction / Grading Activity / During Building Permit Inspection	Community Development and Public Works Departments			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
AQ-2	<p>In order to reduce fugitive dust emissions, each Project parcel shall obtain permits, as needed, from the Town and the State Air Pollution Control District (APCD) and shall implement measures during grading and/or construction of the individual parcels to ensure compliance with permit conditions and applicable Town and APCD requirements.</p> <p>a. The individual parcels shall comply with State, APCD, Town, and Uniform Building Code dust control regulations, so as to prevent the soil from being eroded by wind, creating dust, or blowing onto a public road or roads or other public or private property.</p> <p>b. Adequate watering techniques shall be employed on a daily basis to partially mitigate the impact of construction-generated dust particulates.</p> <p>c. Clean-up on construction-related dirt on approach routes to the Project parcels shall be ensured by the application of water and/or chemical dust retardants that solidify loose soils. These measures shall be implemented for construction vehicle access, as directed by the Town Engineer. Measures shall also include covering, watering or otherwise stabilizing all inactive soil piles (left more than 10 days) and inactive graded areas (left more than 10 days).</p> <p>d. Any vegetative ground cover to be utilized on the individual Project parcels shall be planted as soon as possible to reduce the amount of</p>	<p>Review and Approval of Grading Plans and Specifications; Public Works Department Field Inspections</p>	<p>Prior to Project Grading Plan and Specification Approval; During Construction / Grading Activity</p>	<p>Public Works Department</p>			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
	open space subject to wind erosion. Irrigation shall be installed as soon as possible to maintain the ground cover. e. All trucks hauling dirt, soil or other loose dirt material shall be covered.						
AQ-3	To reduce the potential of spot violations of the CO standards and odors from construction equipment exhaust, unnecessary idling of construction equipment shall be avoided.	Review and Approval of Construction Plan Specifications; Public Works Department Field Inspections	Prior to Project Grading Plan and Specification Approval; During Construction / Grading Activity	Public Works Department			
AQ-4	The Project shall contribute on a fair share basis through payment of Development Impact Fees to the Town's street sweeping operations in order to reduce emissions and achieve the required Federal standard.	Prior to Building Permit "First-Framing" or as required by Municipal Code	Prior to Building Permit "First-Framing" or as required by Municipal Code	Community Development Department			
BIOLOGICAL RESOURCES							
BIO-1	Grading permits required for the Project shall include, but not be limited to, the following where applicable: a. Stockpile and protect topsoil removed during the construction phase of the Project. b. Reapply topsoil to cleared and graded surfaces as soon as feasible and prevent unnecessary soil compaction. c. Terrace cleared slopes and apply protective mulch. a. Select species for planting that satisfy the project's landscaping goals, yet are suited for the existing environmental conditions. b. Plantings should be healthy individuals grown under field conditions.	Review and Approval of Grading Plans and Specifications; Public Works and Community Development Department Field Inspections	Prior to Project Grading Plan and Specification Approval; During Construction / Grading Activity	Community Development and Public Works Departments			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
	<ul style="list-style-type: none"> c. Plant shrubs and trees in late spring or early summer after threat of snow and heavy frost is past. d. Fertilize plants sparingly or not at all. e. Provide for irrigating young plants using a drip irrigation system for approximately two years, or until establishment is certain. 						
BIO-2	All newly disturbed areas shall be immediately revegetated, preferably with native plant materials, to minimize loss of wildlife habitat and to reduce weed species invasion.	Review and Approval of Grading Plans and Specifications; Public Works and Community Development Department Field Inspections	During construction and/or prior to certificate of occupancy	Community Development and Public Works Departments			
BIO-3c	Construction shall be limited to 7:00 AM to 7:00 PM in accordance with the Bluffs subdivision EIR, to minimize noise impacts to wildlife, and in particular to mule deer.	During Construction / Grading Activity	During Construction / Grading Activity	Community Development Department			
BIO-4	In accordance with Municipal Code Section 12.08.090, during construction, dust controls shall be instituted to reduce wildlife impacts. Such controls are to include watering and mulching of disturbed areas; initiation of revegetation efforts shall commence as soon as practical after construction.	Review and Approval of Grading Plans and Specifications and/or Building Permit ; Community Development and Public Works Department Field Inspections	Prior to Project Grading Plan and Specification Approval; During Construction / Grading Activity / During Building Permit Inspection	Community Development and Public Works Departments			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
BIO-5	Night lighting shall be limited in both amount and intensity of fixtures to a level adequate for safety purposes, so as to reduce impacts to nocturnal wildlife species, particularly mule deer.	Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Review and Approval of Project Plans and Specifications for Parcel 1	Prior to Review and Approval of Grading and/or Building Permit for Parcels 2 through 4. Prior to Review and Approval of Use Permit for Parcel 1	Community Development Department			
BIO-6	Dogs shall not be permitted to roam freely; dogs, including during the construction phase, must be on a leash or within an enclosure.	Code enforcement	Code enforcement	Community Development and Public Works Departments			
BIO-7	To reduce the spread of insect pests, trees, and other large plants in close proximity to construction sites shall be protected by erecting barriers (e.g. plastic flagging) and to avoid root, stem, or trunk damage.	Review and Approval of Grading Plans and Specifications and/or Building Permit ; Community Development and Public Works Department Field Inspections	Prior to Project Grading Plan and Specification Approval; During Construction / Grading Activity / During Building Permit Inspection	Community Development and Public Works Departments			
BIO-8	To reduce impacts on mule deer, <u>Great Grey Owl</u> , and <u>Northern Goshawk</u> , construction activities shall be scheduled to minimize disturbance to migratory deer <u>and nesting/fledgling raptors</u> , that is, not during the spring and fall migration/holding periods. Major construction activities (e.g. earthmoving, paving, extensive exterior building work, etc.) shall be scheduled between November 1 – April 1 and June 1 <u>August 1</u> – October 1.	Community Development and Public Works Department Field Inspections during times when major construction activities are prohibited (April 2 – July 31 and October 2 – October 31)	During Construction / Grading Activity	Community Development and Public Works Departments			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
BIO-9	Fences generally should be discouraged. Otherwise, any fences shall follow United States Forest Service guidelines for fencing that allow for easier deer movement. All proposed fencing shall be approved by the Community Development Department.	Review and approval of Building Permit	Building Permit	Community Development Department			
BIO-10	Any other impediments to deer movement (such as soil piles, open ditches, and cut-fills) shall be avoided. Such impediments shall be rectified as soon as possible to reduce wildlife/deer movement, interference and danger.	Review and Approval of Grading Plans and Specifications and/or Building Permit ; Community Development and Public Works Department Field Inspections	Prior to Project Grading Plan and Specification Approval; During Construction / Grading Activity / During Building Permit Inspection	Community Development and Public Works Departments			
BIO-11	Disturbance of habitat in the areas adjacent to the development shall be limited to that which is necessary to accomplish necessary work. Limits of disturbance shall be established in accordance with Town engineering standards.	Review and Approval of Grading Plans and Specifications and/or Building Permit ; Community Development and Public Works Department Field Inspections	Prior to Project Grading Plan and Specification Approval; During Construction / Grading Activity / During Building Permit Inspection	Community Development and Public Works Departments			
CULTURAL RESOURCES							
CUL-1	A low, permanent fence of weather-resistant materials (e.g. wrought iron, or stone pillars and wooden rails) shall be constructed around the gravesites. The fence can either be constructed along the easement boundary, or be placed in a 7-foot by 8-foot boundary around the gravesites, as recommended in the cultural resources study.	Review and Approval of Grading Plans and Specifications and/or Building Permit for improvements related to Parcels 2 through 4	Prior to Ground Disturbance for improvements related to Parcels 2 through 4	Community Development Department			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
CUL-2	<p>Additionally, in accordance with State law and the Bluffs EIR, in the event that a material of potential cultural significance is uncovered during grading and/or construction, including grading and construction of the parcels, public parking area <u>ADA parking space</u>, and off-site turnout improvements to Tamarack Street, <u>and improvements to the transit stop on Old Mammoth Road at Tamarack Street</u>, all work in the area of the uncovered material shall cease, the Town notified, and an archaeological monitoring program should be implemented. The monitoring program shall be managed by an archaeologist who meets the <i>Secretary of the Interior's Professional Qualification Standards</i>. The archaeological monitoring program shall include provisions for an archaeological monitor; assessing the significance of archaeological finds; consideration of avoidance and minimization of impacts to significant archaeological resources (in consultation with the Town); mitigation measures including archaeological excavation, laboratory analysis, reporting, and curation; and consultation with Indian Tribes if resource is prehistoric in nature.</p>	Ground Disturbance and/or Grading Activities	Upon discovery of potentially significant subsurface cultural resources during ground disturbance	Community Development Department and Qualified Archaeologist (if necessary)			
CUL-3	<p>If any human remains are encountered during construction, all work in the vicinity of the discovery must be halted and the Town notified in accordance with State of California Public Resources Health and Safety Code § 7050.5-7055 and § 5097.98). The <u>Professional Guide for the Preservation of Native American Remains and Associated Grave Goods</u> shall be utilized to protect Native American burial sites should they be discovered.</p>	Ground Disturbance and/or Grading Activities	Upon discovery of potentially significant subsurface cultural resources during ground disturbance	Community Development Department and NAHC (if necessary)			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
GEOLOGY AND SOILS							
GEO-1	Prior to grading or building permit issuance for the individual single-family lots, a soils report for the proposed building foundations will be required and any recommendations or mitigation measures specific to those foundations shall be incorporated and shall be assured by the Community Development Director and Town Engineer.	Review and Approval of Grading Plans and Specifications and/or Building Permit	Prior to Grading and/or Building Permit Issuance	Community Development and Public Works Departments			
GEO-2	The Project shall obtain a Engineered Grading Permit from the Town in accordance with the erosion and drainage design standards outlined in Municipal Code Section 12.08.	Review and Approval of Grading Plans and Specifications	Grading Permit Issuance	Public Works Department			
GEO-3	Construction shall be consistent with the Town of Mammoth Lakes Seismic Zone IV standards.	Review and Approval of Project Plans and Specifications and/or Building Permit	Prior to Grading and/or Building Permit Issuance	Community Development Department			
HAZARDS AND HAZARDOUS MATERIALS							
HHM-1	Structures within the identified run-out zone shall be designed and constructed to meet the required design-year avalanche impacts as specified in the November 4, 2003 Arthur I. Mears report entitled, Avalanche Mitigation Analysis, Tamarack Road Lots, Mammoth Lakes, California.	Review and Approval of Project Plans and Specifications; Grading and/or Building Permit Review	Prior to Project Grading Plan and/or Building Permit Issuance for Parcels 2 through 4	Community Development Department and Qualified Avalanche Expert or Certified Engineer			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
HHM-2	<p>Structures within the Snow Deposition Design (SDD) shall be designed meet the following minimum criteria:</p> <p>a. Structures shall be located a minimum of 30 feet to the windward of the point at which the slope steepens to 30 degrees.</p> <p>b. Structures shall be located at a minimum of 1.5 times their height above grade to the windward of the point at which the slope steepens to 30 degrees. Should the structures be multilevel, each level shall conform to this 1.5 times factor.</p> <p>c. Roof, walkways, and driveways shall be located or positioned such that shedding snow or plowed snow is not directed toward the starting zones.</p>	<p>Review and Approval of Project Plans and Specifications; Grading and/or Building Permit Review</p>	<p>Prior to Use Permit and Design Review Approval for Parcel 1</p>	<p>Community Development Department and Qualified Avalanche Expert or Certified Engineer</p>			
HHM-3	<p>The following factors should be considered when designing avalanche mitigation into future structures to be built on Project parcels.</p> <p>a. Windows and doors exposed to avalanche shall be designed for avalanche impact.</p> <p>b. Alternate entrances safe from avalanches shall be included.</p> <p>c. Final loads may require adjustment by an impact factor.</p> <p>d. Building orientation, shape, or other factors could change the loads.</p> <p>e. Impact decreases linearly with height.</p>	<p>Review and Approval of Project Plans and Specifications; Grading and/or Building Permit Review</p>	<p>Prior to Project Grading Plan and/or Building Permit Issuance for Parcels 2 through 4; Prior to Use Permit and Design Review Approval for Parcel 1</p>	<p>Community Development Department and Qualified Avalanche Expert or Certified Engineer</p>			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
HHM-4	Prior to grading permit and/or building permit issuance for each Project parcel, an assessment of the proposed building site orientation and structure design shall be assessed by a certified structural engineer and/or avalanche consultant to ensure that all avalanche hazard mitigation design requirements are met.	Review and Approval of Project Plans and Specifications; Grading and/or Building Permit Review	Prior to Project Grading Plan and/or Building Permit Issuance for Parcels 2 through 4; Prior to Use Permit and Design Review Approval for Parcel 1	Community Development Department and Qualified Avalanche Expert or Certified Engineer			
HYDROLOGY AND WATER QUALITY							
HWQ-1	A Engineered Grading Plan shall be submitted for grading activities. The Project shall comply with the National Pollution Discharge Elimination System (NPDES) requirements for construction projects, the MOU between the Town of Mammoth Lakes and Lahontan Regional Water Quality Control Board (LRWQCB), and the Town Municipal Code. Construction activities subject to these requirements shall include clearing, grading, and disturbances to the ground such as stockpiling or excavation, but not including regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Grading Plan shall be designed and incorporate Best Management Practices (BMPs) into plans and Storm Water Pollution Prevention Plan (SWPPP) as required. All temporary off-site Best BMPs are required to be removed in the Town right-of-way after October 15 th or before April 30 th each year. The applicant shall maintain the BMP's on-site at all times and shall conform to the permits during construction.	Review and Approval of Project Plans and Specifications; Review and approval of Grading and/or Building Permit Plans; Obtain required waste discharge permits	Prior to Project Grading Plan and Specifications Approval; Prior to Grading / Construction Activities	Public Works Department; Lahontan Regional Water Quality Control Board (as necessary)			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
NOISE							
N-1	<p>Prior to grading operations, the Project shall demonstrate, to the satisfaction of the Town of Mammoth Lakes Community Development Department, that the project complies with the following through a construction management plan reviewed and approved by the Town:</p> <p>a. All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.</p> <p>b. Construction noise reduction methods such as shutting off idling equipment, installing temporary acoustic barriers around stationary construction noise sources, maximizing the distance between construction equipment staging areas and occupied residential areas, and use of electric air compressors and similar power tools, rather than diesel equipment, shall be used where feasible.</p> <p>c. During construction, stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receptors.</p> <p>d. During construction, stockpiling and vehicle staging areas shall be located as far as practical from noise sensitive receptors.</p> <p>e. Operate earthmoving equipment on the construction site as far away from vibration sensitive areas as possible.</p> <p>f. A project sign shall be clearly posted at the primary construction entrance as an information source for surrounding property owners and residents. The sign shall include the following minimum project information: project name,</p>	<p>Review and Approval of Construction Plan Specifications; Public Works Department Field Inspections</p>	<p>Prior to Project Grading Plan and Specification Approval; During Construction / Grading Activity</p>	<p>Public Works and Community Development Departments</p>			



Mitigation Number	Mitigation Measure	Monitoring and Reporting Process	Monitoring Milestones	Party Responsible for Monitoring	VERIFICATION OF COMPLIANCE		
					Initials	Date	Remarks
	general contractor, normal construction hours, normal workdays, and local telephone number of job superintendent. If the Town of job superintendent receives a complaint, the superintendent shall investigate, take appropriate corrective action, and report the action taken to the Town Community Development Department.						