August 2, 2016

Placer County Planning Commission
3091 County Center Drive
Auburn, CA 95603

Dear Commissioners:

Please accept the attached comments on the Village at Squaw Valley Specific Plan Final Environmental Impact Report (FEIR).

For reasons spelled in detail in the attached letter, the FEIR is inadequate under state law. Instead of correcting the flaws of the Draft EIR, the Final EIR furthers a fatal approach to environmental assessment and fails to live up to the most basic requirement of the California Environmental Quality Act: to inform decision makers and the public about what this massive project would mean to Squaw Valley, to North Lake Tahoe, and beyond.

Approval of the Squaw Valley Village Specific Plan would therefore not only be irresponsible but, also, illegal.

In order to ensure that planning in Squaw Valley can provide a responsible vision for the region and satisfies the requirements of state law, Sierra Watch urges the Planning Commission to follow the County’s Squaw Valley Municipal Advisory Council and recommend that Placer County deny the project outright.

The FEIR, as is made clear in the attached letter, provides ample reason to do so.

Our comment letter was prepared by the law firm of Shute, Mihaly & Weinberger. Their conclusions are the result of extensive research by a team of experts in law, planning, hydrology, wildlife biology, transportation, and related fields. The team carefully reviewed the proposed plan, consulted local expertise, scrutinized related case law, and
investigated the claims of the FEIR. Once again, their findings are clear: the FEIR fails to comply with fundamental requirements of the California Environmental Quality Act (CEQA). For example:

- The FEIR repeatedly attempts to avoid detailed analysis and, instead, kick the can down the road by falsely rationalizing limited analysis as appropriate for a “Program EIR”. It’s a misguided attempt to absolve the County of its decision-making responsibilities and pass the buck of actual environmental assessment.

- The FEIR mistakenly ignores the proposed development’s impacts on Lake Tahoe, condescending to remind that the project lies “outside of the defined Basin” but failing to own up to the impacts that would occur inside the Tahoe Basin – many stemming from the 1,353 new daily car trips the project would pump into Tahoe City’s traffic mess.

- The FEIR downplays the project’s potential impact on Squaw Valley’s limited water supplies and on the water quality in the Truckee River watershed by projecting historic hydrology into an era of climate change and relying upon groundwater modeling that assumes, among other problems, that groundwater can percolate through buildings and parking lots.

- The FEIR fails to own up to how much traffic the project would add to our crowded roads and highways, pretending that limited parking will deter skiers to travel to Squaw Valley (which is not happening so far) and claiming, incredibly, that the massive indoor water park, designed to draw 300,000 visitors annually, would generate almost no traffic – only 19 trips on peak afternoons.

- The FEIR does acknowledge the disastrous impossibility of leaving Squaw Valley in the event of wildfire, estimating it would take 10.7 hours to evacuate at full capacity but, amazingly, claiming that “this does not necessarily generate a safety risk.”

- The FEIR avoids the full impact of noise – especially over the estimated 25 years it would take to construct the massive project.

- The project would provide employee housing for only a small percentage of its employees, adding 550 new employees seeking limited supplies of housing elsewhere in the region, but the FEIR downplays the project’s impact on the region’s affordable housing crisis.

- The EIR introduced two new components of the project: a new location for the massive 165,000-gallon “propane farms” and ill-defined tanks holding sewage, but the FEIR failed to assess what those components of the project would mean to water quality, safety, or odors, in Squaw Valley.
The FEIR continues to ignore the Project’s inconsistency with, among others, County General Plan Policies 1.G.1 allowing expansion of ski areas only where existing transportation systems are adequate and environmental impacts can be adequately mitigated and 3.A.7 and 3.A.8 requiring the maintenance of a functioning local and regional transportation networks.

A FEIR is not a magic wand that KSL Capital Partners and the County can wave over Squaw Valley and make traffic, Tahoe, and infrastructure constraints disappear. Environmental review is a serious responsibility, to ourselves and to future generations, mandated by state law, to be thorough in assessment and informed in decision-making.

This FEIR does neither. Approval of the project under its flawed review would therefore violate not only CEQA but, also, the California Planning and Zoning Law and the Subdivision Map Act.

Sierra Watch believes that best way to ensure legality of future land use approvals and, more importantly, a sound vision for the future of Squaw Valley, is to deny the project outright. We ask that the Planning Commission advise Placer County to do just that.

Again, thank you for the opportunity to participate in the public planning process.

Sincerely,

Tom Mooers
Executive Director
August 2, 2016

Via FedEx

Placer County Planning Commission
3091 County Center Drive
Auburn, CA 95603

Re: Village at Squaw Valley Specific Plan Final Environmental Impact Report

Dear Commissioners:

This firm represents Sierra Watch in connection with the Village at Squaw Valley Specific Plan (the "Project" or the "VSVSP") and its associated Environmental Impact Report ("EIR"). Our client is deeply concerned about the far-ranging environmental impacts that would result from the proposed Project.

After carefully reviewing the Final EIR ("FEIR"), we have concluded that it fails to comply with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 et seq. The FEIR follows a similarly inadequate Draft Environmental Impact Report ("DEIR"). Our letter of July 16, 2015 on the DEIR is by this reference incorporated herein in its entirety, including all attachments. In that letter we described many substantive flaws in the DEIR’s analysis.

The FEIR neither adequately responds to comments previously raised nor cures the legal inadequacies identified by those comments. Rather than revise the EIR to comprehensively analyze, for example, the Project’s impacts on water, traffic, emergency response, Lake Tahoe and its clarity, noise or visual resources, the FEIR merely seeks to defend the erroneous assertions and conclusions of the prior document. Where the EIR does add analysis or make changes to the Project, it fails to acknowledge the significance of the changes or recirculate the document. Additionally, the FEIR fails to adopt feasible mitigation measures identified by comments. Although we identified several clearly feasible measures to reduce, for example, the Project’s significant and purportedly unavoidable transportation impacts, the FEIR rejects the vast majority of these measures.
Notably, the FEIR repeatedly attempts to justify the DEIR’s analysis as appropriate for a “program EIR,” claiming that this label frees it from the obligation to perform detailed, site-specific analysis of the Project’s impacts. As explained below, this is incorrect. Squaw Valley Real Estate, LLC is asking the County to approve not only a Specific Plan and rezoning, but also a large lot subdivision and a development agreement. Together, these approvals would irrevocably commit the County to the developer’s specific resort plan. Regardless of the label, the EIR remains inadequate as an informational document when it fails to conduct a thorough analysis of all of the Project components’ environmental impacts.

In addition to the EIR’s CEQA violations, the Project demonstrates a disturbing disregard for the Placer County General Plan and the Squaw Valley General Plan and Land Use Ordinance. Both plans include provisions developed to protect the environment and human health and well-being. Although the applicant proposes to amend these plans, the amendments would only serve to undermine the integrity of the County’s planning efforts. Thus, because the Project conflicts with several fundamental planning provisions so as to result in significant environmental impacts, and because the County has failed to adequately identify these conflicts in the EIR, approval of the Project would violate not just CEQA, but also the California Planning and Zoning Law, Government Code §§ 65000 et seq., and the Subdivision Map Act, Government Code §§ 66473.5, 66474 et seq.

At a more fundamental level, it is important to point out that the proposed Project represents a reckless disregard for the environment and the Olympic Valley community. In addition to Sierra Watch, numerous agencies, residents, and organizations such as the League to Save Lake Tahoe, Center for Biological Diversity, Sierra Club, Mountain Area Preservation, Friends of the West Shore, and the Friends of Squaw Valley have weighed in on the merits of the Project explaining that its benefits would be outweighed by the environmental impacts. The Squaw Valley Municipal Advisory Council (“MAC”) appears to agree with this assessment. At its May 14, 2016 meeting, the MAC recommended that the Project be denied and that “serious consideration be given to the project at a level approximately 50% of what is currently proposed.” Sierra Watch also urges the County to reject this ill-conceived Project.

The remainder of this letter explains how the FEIR perpetuates the failings of the DEIR. We will not here reiterate our comments in full. Instead, we detail below some of the FEIR’s more egregious shortcomings.
THE FEIR FAILS TO COMPLY WITH CEQA.

A. The FEIR Fails to Correct the DEIR’s Incomplete Description of the Project and the Project Setting.

1. The EIR’s Description of the Project Components and their Impacts Is Inappropriate for this Project.

In our previous letter, we detailed the failings of the DEIR’s description of the Project, including the failure to adequately disclose details regarding numerous Project components, concluding that its lack of detail rippled through the document’s impact analyses. Without a sufficiently detailed Project description, including all of the Project’s components, we explained, the impact analyses were too vague and deferred much meaningful analysis and mitigation until later phases of the Project. The FEIR’s oft-repeated response to this concern is that the EIR provides “enough detail to conduct a programmatic analysis.” E.g., FEIR at 3.2.4-469. In other words, the EIR asserts that because it is meant to be a “program” EIR, it has no obligation to describe the Project fully, nor to adequately analyze its impacts.

This claim cannot justify the EIR’s approach. Here, the County is considering detailed approvals, including of a subdivision map and a development agreement, that would irrevocably determine and entitle essential aspects of the Project. CEQA requires a thorough analysis of reasonably anticipated impacts of the entire project; it does not permit an EIR to analyze only the general impacts of a conceptual plan when an agency is considering approval of a specific project. See Stanislaus Natural Heritage Project v. County of Stanislaus (1996) 48 Cal.App.4th 182.

The label attached to an EIR—“programmatic” or “project-level,” “first-tier” or “second-tier”—is unimportant. The “real issue is when” there must be detailed, site-specific analysis of all of a project’s environmental impacts. Al Larson Boat Shop, Inc. v. Board of Harbor Commissioners (1993) 18 Cal.App.4th 729, 743. And the answer to that question, of course, is that environmental impacts must be specifically identified and mitigated at the earliest possible date, in order to “inform the public and responsible officials of the environmental consequences of their decisions before they are made.” Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564.

That time is right now. The proposal before the County is, on its face, a project to build a specific resort, with specific elements, in a specific location. The County is now considering a Specific Plan, which includes an illustrative concept plan
calling for the creation of 1,643 bedrooms, 297,733 square feet of commercial, and other land uses, along with a re-zoning and approval of large-lot tentative subdivision map, as well as a development agreement that would lock in development for decades. DEIR at 3-10, 3-39. The development plans are incredibly detailed at this stage. For example, its
at the level of setting forth the number of bowling lanes (30), and the styles of dormers (gable, hipped, or shed). The EIR nonetheless defers a significant amount of analysis. This is unacceptable.

The “tiering” concept cannot save the EIR’s approach. A general, first-tier program-level EIR is appropriate for a (typically long-range) planning or policy document, such as a general plan for a city or county, a long-range development plan for a university campus, or an overarching master plan for future uses of a large infrastructure facility like a port. See, e.g., Al Larson, 18 Cal.App.4th 729 (master plan for port); Save the Sunset Strip Coalition v. City of West Hollywood (2001) 87 Cal.App.4th 1172 (general plan). These plans identify overarching policies and types of future projects, as well as general areas where such projects might be built. They do not make commitments to concrete, specific development projects. Analyzing such plans at a broad level, concentrating on the impacts that are common to all the individual future projects, makes sense.

The actions before the County now, however, are nothing like these planning documents. The Board’s approval would make an irrevocable commitment to very precise levels and types of development. This is a specific project, and requires a full, detailed EIR. A generalized, “programmatic” analysis that glosses over project components is entirely inappropriate for the approval of this project. When a precise site has been delineated and specific facilities are in the works, the lead agency has a statutory mandate to produce a “detailed statement setting forth ... [a]ll significant effects on the environment of the proposed project.” Pub. Res. Code § 21100(b)(1).

The specific plans for Squaw Valley Resort are unquestionably the type of “particularly described facets” that were also at issue in Stanislaus Natural Heritage Project, 48 Cal.App.4th at 203. There, the court found that the county’s amendment of its general plan to include a plan for Diablo Mountain resort, was itself a “project,” thus requiring a specific, project-level analysis of the significant environmental effects of that project. Id. at 202. Here, Placer County is even farther along: it is processing an application for a specific plan, development agreement, and large-lot tentative subdivision map for the Project. But Placer County, like Stanislaus County in Stanislaus Natural Heritage Project, has produced a “program” EIR that is chock full of deferred
analysis and mitigation and does not sufficiently analyze the long-term environmental impacts of the envisioned final project.

CEQA’s promise is that the environmental consequences of a development of this magnitude will be “considered before, not after, [the decision to approve the project] is made.” Id. at 196. Analysis of the known and reasonably foreseeable environmental impacts of the entire project is fundamental to informed decision-making. Id. at 199. Whatever the title on the EIR’s cover, the document must fully define the “project.” It is crucial to provide sufficient meaningful information up front about the reasonably foreseeable effects of the final project, and options for mitigation, otherwise the public and decision-makers have no way of knowing exactly what they are approving. Id. at 202, 206.

The County must not pretend that the “project” at issue today is merely a broad conceptual plan. The project before the Board is the entire Village at Squaw Valley Resort. Once the current approvals are granted, the Project is effectively a done deal. CEQA therefore demands that its impacts be fully analyzed before these approvals. The Court of Appeal has expressly held it inappropriate to defer analysis of the environmental impacts of a project until after the adoption of a “plan calling for the project to be built.” Id. at 200. Once such a plan is adopted, the project surely follows, and it is too late for meaningful environmental review.

CEQA requires analysis of each project component and impact, as well a complete description of the project setting, to the extent information is known or can be reasonably ascertained. The EIR’s failure to do so are outlined in Sierra Watch’s and others comments on the DEIR, and in the pages that follow. To take but a few examples, the EIR still fails to (1) describe vital Project elements such as those necessary to handle the sewage generated by the Project, and (2) adequately describe the existing setting, such as by refusing to undertake the appropriate sensitive habitat, species, and wetlands surveys—surveys the EIR has admitted are possible to do now, based on the information currently available about the Project. See infra, Parts I.B(2) & (12).

Thorough environmental analysis is especially important now, because as our comments on the DEIR noted, it is clear that in-depth environmental review in the future is highly unlikely. While the FEIR claims there would be a “process” for later determination of whether further environmental review is required (FEIR at 3.2.4-467), approval of the development agreement would control implementation of the Project and create an entitlement that forecloses the County from disapproving any of the Project’s components contained therein. While the County has thus far not provided a copy of the
development agreement or description of its contents for public review, at a minimum one can assume that it would entitle the applicant to all the components in the Specific Plan. Failing to openly reveal the full extent of entitlements certainly does not excuse a failure to analyze them.

2. The FEIR Cannot Justify the Improper Piecemealing of the Project.

In our comments on the DEIR, we explained that the Project was inappropriately being reviewed separately from connected projects, including the proposed base-to-base gondola connecting Squaw Valley and Alpine Meadows, and the water supply project to serve Squaw Valley. The FEIR claims that these two endeavors are entirely independent from the VSVSP. This is incorrect.

Regarding the gondola, the FEIR claims it is “independent from” the Village. FEIR at 3.2.4-472. Yet, the Project applicant, who owns both Squaw Valley and Alpine Meadows ski resorts, has openly touted the gondola as part of its grand vision to connect the two resorts. See, e.g., Exhibits 1 & 2 (Sacramento Bee Article and Squaw Valley Magazine). Indeed, in its gondola proposal, Squaw Valley Ski Holdings states the purpose of the gondola is to allow lodging guests and visitors at the Village at Squaw Valley “to have lift-served access to Alpine adding tremendous depth and adventure to their skiing day.” Exhibit 3 at p. 3. The proposal even cites a survey where “36 percent of respondents said they were likely to begin their day by parking at Squaw to access Alpine during their day.” Id. Conversely, visitors to Alpine “would have ready access to the terrain and amenities at Squaw.” Id.; see also Exhibit 4 at p. 4 (Placer County NOP for Gondola Project) & Exhibit 5 at p. 2 (USFS Notice of Proposed Action).

Where currently visitors either choose one resort or the other, or take a limited shuttle service between the two, the increased lodging and amenities proposed for Squaw would no doubt both tax the terrain at Squaw and also attract more visitors from Alpine, where amenities are more scarce. Exhibit 5 at p. 2 (USFS Proposed Action Description). Thus, it is clear even to the casual observer that a primary purpose of the gondola is to provide the vast new population generated by the Project convenient access to/from the additional terrain at Alpine Meadows, as well as to provide a convenient means for Alpine users to access the Project’s amenities at Squaw. Contrary to the FEIR’s assertions, the financial incentives for the gondola would be little to none without the Project. It is certainly not a coincidence that the gondola, which is a long-time “dream” of the applicant, is now being proposed at the exact same time as the Project. Exhibit 4.
The FEIR also claims that the gondola "was not [...] reasonably foreseeable" at the time the DEIR was prepared for the Project. FEIR at 3.2.4-473. This argument strains credulity. The gondola is proposed by the same applicant and owner as the Project. The applicant/owner knew full well of its contemporaneous plan to propose both the Village development and the gondola to connect that development to its sister ski resort at Alpine Meadows. Indeed, the plan for the gondola connection was announced in the Alpine Meadows Master plan in March 2015, several months before the release of the DEIR. See Exhibit 6 (Alpine Meadows Master Plan).

With respect to the additional water supply project (Project 60, the pipeline to Martis Valley), the FEIR merely repeats that there is enough water in the aquifer and therefore Project 60 is not necessary for the Project. FEIR at 3.2.4-473. Sierra Watch disagrees with this assessment. (See infra, Part I.B(1)). But in any event, the FEIR admits that Project 60 would serve the Project as a "supplemental water supply for emergency backup." FEIR at 3.2.4-473. There is no evidence that such a "backup" supply would be needed but for the Project’s massive new development. It is also not a coincidence that this supplemental water is being sought out in conjunction with the Project.

Both common sense and the evidence dictates that the Project applicant has an overarching plan to connect and combine its two resorts into one mega-resort via the gondola. The County must analyze this overarching plan in one document. Similarly, the County must analyze the water supply (be it the main supply or a supplemental supply) for the Project in the same document. The failure to do so results in piecemealed environmental documents that do not have the ability to look holistically at the overall project’s environmental impacts, or ways to reduce or avoid those impacts.

3. The FEIR Fails to Correct the Lack of Detail Regarding the Project’s Unique Setting Near the Tahoe Basin.

Sierra Watch and numerous other commenters alerted the County that the DEIR failed to evaluate the unique environmental setting of the Project, including the fact that its impacts would spill over to the Tahoe Basin. See, e.g., FEIR at 3.2.4-345 (SMW comment no. 09-18). As explained, the Tahoe Basin is an area of “statewide, regional, or areawide significance” under CEQA. Id. (citing CEQA Guidelines § 15206(b)(4)(A)). The Basin also has an environmental carrying capacity (i.e., a point at which Lake Tahoe and the Basin no longer sustain the environmental attributes that make it an area of statewide and regional significance), which is reflected in thresholds set by the Tahoe Regional Planning Agency (“TRPA”).
The FEIR continues to give short shrift to the unique setting posed by the Basin, essentially giving a “not my problem” response to comments concerning the issue:

The proposed project is outside of the defined Basin. TRPA does not have jurisdiction over projects outside of the Basin; thus, lead agencies such as Placer County are not required to apply TRPA’s threshold standards as part of their consideration of a proposed project located outside the Basin, or evaluate the ability of TRPA to meet the thresholds.

FEIR at 3.1.15-86. While the Project boundaries may be outside of the Basin, as the EIR admits, the Project’s impacts extend to within the Basin. Thus, the unique environmental setting of the Basin, including TRPA’s thresholds, is very much an issue that the EIR must address.

While Placer County has some discretion over the thresholds the EIR employs, those thresholds may not be used to ignore or obscure environmental impacts. See Protect the Historic Amador Waterways v. Amador Water Agency (2004) 116 Cal.App.4th 1099, 1109. Moreover, those impacts must “be considered in the full environmental context” (CEQA Guidelines § 15125(c)), which includes the unique environmental setting of the Tahoe Basin. See, e.g., Friends of Eel River v. Sonoma County Water Agency (2003) 108 Cal.App.4th 859, 874 (EIR invalid because incomplete environmental setting “fail[ed] to set the stage for a discussion” of the project’s environmental impacts).

Here, the EIR’s failure to take into account the Basin’s environmental carrying capacity resulted in an underestimation of the Project’s impacts on this treasured resource and, also, a failure to analyze or adopt appropriate mitigation or alternatives to help avoid these impacts. For example, while the DEIR admitted that the Project would cause significant and unavoidable traffic impacts in the Tahoe Basin on SR 28 east of SR 89 (DEIR at 9-59), the DEIR failed to provide an overall estimate of the additional vehicle miles travelled (VMT) in the Basin that would result from the Project. This is important because TRPA’s environmental carrying capacity calls for a VMT threshold of 10% below 1981 levels (or 2,067,600). FEIR at 3-25. The FEIR attempts to provide the VMT analysis, calculating that the Project would generate 23,842 VMT in the Basin under summer peak conditions. *Id.* This estimate was based on an assumption that 41%
of the Project’s trips would travel to the Basin.\(^1\) Id. The FEIR claims that even with Project-generated VMT, the VMT in the Basin would be less than the threshold (equaling a total of 2,008,442). Id. However, the FEIR fails to identify or analyze the Project’s cumulative impacts to VMT in the Basin, when viewed in conjunction with the many other projects currently planned for the area (such as Martis Valley West) – or the potential for town-centered development within the Basin, as called for in the TRPA Regional Plan Update. Given that there is only a remaining 59,158 VMT before the threshold is met, this is a critical issue. Using up 40% of the Basin’s remaining VMT for one project indicates a significant impact that must be analyzed in the EIR.

Additionally, the FEIR briefly acknowledges the Project, which would generate an estimated 1,353 daily trips to the Basin, would far exceed TRPA’s 200 daily trip threshold. FEIR at 3.2.X-4 (TRPA comment letter); 3.2.X-7 (response to TRPA comment letter). However, the FEIR cursorily concludes that it need not utilize TRPA’s thresholds or required mitigation because the Project site is located outside the Basin. Id. Although the project may be located outside of the Basin, the traffic the Project would generate would clearly not stay in one place; much of that traffic would be located inside the Basin.

The Project’s large VMT and daily trip generation thus result in a significant impact to the unique environment of the Basin that must be analyzed and mitigated, regardless of jurisdictional boundaries. Viewed in a different way, if new projects just outside of the Basin were allowed to ignore TRPA thresholds, they could easily cumulatively result in an exceedance of the environmental carrying capacity of the Basin without ever identifying this as a significant impact or requiring mitigation. This would not only degrade the environment of a treasured resource,\(^2\) it would also preclude any new development or much needed redevelopment within the Basin itself.

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\(^1\) We believe this is an underestimation as studies show that a majority of visitors to the Project area also visit attractions in the Basin. See, e.g., DEIR comment letter by Friends of West Shore.

\(^2\) Increased VMT and vehicle trips not only affect traffic and air quality, they also impact the water quality/clarity of the Lake as fine sediments generated by roadway traffic accounts for a significant portion of the sediments in the Lake. See Fugitive Dust Emissions from Paved Road Travel in the Lake Tahoe Basin, available at: http://www.2ndnaturellc.com/wp-content/uploads/2013/07/Fugitive-Dust-Emissions-
4. The FEIR Fails to Support the EIR’s Occupancy Assumptions.

Sierra Watch and others commented that the DEIR was not transparent as to the occupancy rates used for each analysis and appeared to underestimate occupancy by using only a 55% occupancy rate for various impacts. The FEIR acknowledges, as it must, that correct occupancy assumptions are important to an adequate environmental analysis. For example, the FEIR concedes that if the EIR had used full occupancy that “would mean the environmental impacts tied to occupancy would be calculated to be much higher than the DEIR determined they would be. Full occupancy would mean the project would operate with 80% higher occupancy than the DEIR assumed on an annualized basis.” FEIR at 3.68. Yet, the FEIR still remains unclear as to all of the impacts that are impacted by this analysis. The FEIR mentions only GHG impacts and “utilities.” For utilities, the FEIR focuses exclusively on water supply. The FEIR fails to mention all relevant issues for utilities, such as sewage capacity and propane storage and use, nor does it mention other impacts that may be impacted by occupancy rates, such as employees, population, and housing impacts.

Further, the FEIR continues to rely on outdated occupancy surveys. The FEIR claims comments failed to supply other evidence about higher occupancy rates. Sierra Watch and others commented that entire purpose of the Project is to increase occupancy. The EIR must evaluate the intended uses of the Project, regardless of historic rates. San Joaquin Raptor Rescue Center v. County of Merced (2007) 149 Cal.App.4th 645, 655, 657. In any event, Placer County has released more recent occupancy data, which reports an annual average of 70%-73% occupancy for resorts/hotels in Squaw Valley from 2012-2014. Exhibit 8 (Hearing Report: Economic Development Incentives for North Lake Tahoe Town Centers, prepared for Placer County) at p. A5, Table A-3. Additionally, a 2013 environmental study for the Embassy Suites Lake Tahoe Resort indicates that resort maintained an average occupancy rate of 68%. Exhibit 9 (Behavior and Social Issues, 22, 21-39 (2013) by Emily Leeming, David Hansen, Mark Alavosius & Daniel Reimer.) at p. 24. Although this resort is in South Lake Tahoe, it provides numerous services and amenities to attract return visitors (id.), and is thus similar to the proposed Project. Thus, occupancy data suggests that the estimate utilized in the FEIR is far too low, especially given the Project’s purpose.

B. The EIR’s Analysis of and Mitigation for the Impacts of the Proposed Project Remain Inadequate.

1. The FEIR Does Not Remedy the DEIR’s Failure to Adequately Analyze and Mitigate the Project’s Impacts on Water Supply, Hydrology, and Water Quality.

Sierra Watch, the Lahontan Regional Water Quality Control Board, the Squaw Valley Public Service District, Squaw Valley Mutual Water Company, and others pointed out numerous failures in the analysis and mitigation of Project impacts on hydrology. As explained in this letter and the attached Review of Final Environmental Impact Report for the Village at Squaw Valley Specific Plan by Tom Myers, Ph.D. ("Myers Report"), attached as Exhibit 10 and incorporated herein by reference, many issues remain unresolved by evasive, conclusory, and incomplete responses to comments in the FEIR. This failure renders the analysis and proposed mitigation insufficient to support responsible, legal, decision-making under CEQA.

As explained in Sierra Watch’s DEIR comments, *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 431 sets forth the rigorous standards an EIR must meet when analyzing water supply impacts for long-range plans. These obligations include identifying an adequate source of water for the construction and operation of the entire project and analyzing the environmental impacts of utilizing that water source. Vineyard further points out that “future water supplies identified and analyzed must bear a likelihood of actually proving available; speculative and unrealistic allocations (‘paper water’) are insufficient bases for decision-making under CEQA.” Id. at 432. This determination must be supported by substantial evidence. “Finally, where, despite a full discussion, it is impossible to confidently determine that anticipated future water sources will be available, CEQA requires some discussion of possible replacement sources or alternatives to use of the anticipated water, and of the environmental consequences of those contingencies.” Id.

As explained below, the EIR cannot satisfy any of Vineyard’s requirements. Unrealistic assumptions concerning groundwater recharge and fundamental mischaracterizations of the environmental and regulatory context prevent the EIR from showing that identified supplies bear a real likelihood of proving available. And, despite the fact that the local water district is concurrently pursuing a project to construct an 8-mile pipeline to tap groundwater in a different basin, the EIR steadfastly refuses to discuss or analyze the impacts of pursuing alternative supplies. In the unlikely event that that local groundwater is fully available, the analysis of the environmental
consequences of the necessary pumping is so crude as to be meaningless. Finally, in an attempt to minimize the damage caused by the reckless decision-making that would be enabled by this EIR, the County’s proposed mitigation measures attempt to improperly impose the burden of monitoring and mitigation on the local water agency, and are furthermore so vague and weak as to be ineffective in preventing significant environmental impacts. In order to support responsible and legal decision-making, the EIR must be amended to cure these defects and recirculated for a new public comment period.

a. **The EIR Fails to Describe the Relevant Environmental and Regulatory Context.**

CEQA is clear that “the EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context.” Guidelines § 15121(c) (emphasis added). While a full description of the physical environment is universally important, courts have explicitly recognized the importance of clearly defining the environmental setting for water supply due to the interconnected nature of rivers, groundwater, and our engineered water delivery systems, and the complex web of laws and regulations managing this precious resource. Thus, the Court of Appeal in *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 875 invalidated an EIR that narrowly focused on the direct water source for a proposed project and failed to acknowledge a potential curtailment in a connected river system. Here, the EIR remains fatally flawed for its failure to meaningfully analyze either the full environmental or regulatory context of pumping from the Olympic Valley Groundwater Basin.

Chief among these failures is the EIR’s conclusory and wholly inadequate discussion of changing climatic conditions in the Project Area. CEQA requires that an EIR provide “a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published . . . from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.” Guidelines § 15125(a). That climate change is occurring, and the manner in which it is proceeding, are essential elements of the baseline physical conditions that must be described in an EIR if it is to support informed decision-making and meet basic legal requirements. Although the EIR here acknowledges that climate change is happening, the modeling upon which the analyses of water supply availability and hydrologically driven environmental impacts are based ignores this undisputed fact. 

**SHUTE, MIHALY & WEINBERGER LLP**
If one is willing and able to search through thousands of pages of the EIR and supporting appendices, it is possible to piece together a general description of the threat climate change poses to water supply in California. For example, the EIR analysis of greenhouse gases and climate change correctly acknowledges that climate change could result in up to a 40% reduction in spring Sierra snowpack by 2050, and “modifications to the timing, amount, and form (rain vs. snow) of precipitation; changes in the timing and amount of runoff; [and] reduced water supply.” DEIR at 16-2, 16-20. What this description of general conditions lacks is any application of what these projections mean for the Project area. This is particularly problematic as even a cursory examination shows that local impacts are likely to be much more severe than stated. Department of Water Resources analyses indicate that northern Sierra peaks, like Squaw Valley and the Tahoe region, are relatively lower in elevation than the southern Sierra, and are therefore expected to bear the brunt of climate change driven snowpack reductions. See Exhibit 11 (Cal. Department of Water Resources, California Climate Science and Data for Water Resources Management (June 2015), at 7).

The inexplicably incomplete treatment of climate change in the July 22, 2015 Village at Squaw Valley Water Supply Assessment Update, upon which the analysis of water supply and pumping impacts in the EIR relies, cannot cure this defect. This analysis candidly acknowledges a robust body of scientific literature on expected local impacts of climate change, stating that “there would be increasingly more precipitation as rain and less as snow, and earlier snowmelt and runoff,” and that in Squaw Valley, “the changing volume and timing of snowmelt has the potential to result in lower groundwater elevations, reduced base flow to streams, and less available groundwater supply.” WSA Update at 7-1. It even goes so far as to acknowledge quantitative estimates of an average 20.6% reduction in critical spring runoff in the San Joaquin River basin project. Id. Setting aside for the moment that the Olympic Valley Groundwater Basin relies on lower elevation peaks, which would experience even greater snowpack reductions as per the DWR projections, these figures provide a starting point to meaningfully analyze how climate change would interact with proposed groundwater pumping.

Unfortunately, the disclosure of the central role that climate change plays in state, regional, and local water supply (buried in an appendix and separate chapter of the EIR) is followed by an unsupported, inconsistent, and conclusory dismissal of any climate change impacts to water supply or hydrology in the Olympic Groundwater Basin. Amazingly, in reaching the conclusion that the Project would have significant impacts related to climate change, Chapter 16 of the EIR includes no discussion of the
implications of a changing climate on water supply or pumping impacts. The WSA Update and Final EIR do not adequately correct this error, relying on a comparison of annual water demand to total annual available recharge to conclude that “future climate change variation could easily be accommodated.” WSA Update at 7-2; see also FEIR at 3-16. This, despite also stating, correctly, that “total annual recharge . . . is not the sole factor in groundwater supply availability” and that “changes to the timing of precipitation and runoff could affect the available supply.” WSA Update at 7-2.

In order to support the informed decisionmaking that CEQA requires, the WSA must analyze the implications of climate change for groundwater supply by simulating the changed precipitation and runoff regimes predicted by climate science. Instead, the WSA Update asserts, without providing any evidence, that “[climatic] changes could also affect the use and visitation patterns in Squaw Valley and therefore also change the associated water demand volumes and timings.” Id. Thus, the WSA improperly concludes that there is not enough information “to reasonably predict the effects of climate change on water supply availability.” Id. The FEIR follows suit, asserting, in seemingly willful blindness to the fine grained modeling used by DWR and others, that “more detailed quantitative analysis of the specific effects of climate change on Olympic Valley groundwater conditions without specific information on how climate change will affect specific precipitation patterns in Squaw Valley would be speculative, unsubstantiated, and uncertain.” FEIR at 3-17.

The result of the EIR’s failure to consider the true environmental context is that no actual analysis of how climate change would affect assessment of either water supply or environmental impacts was performed. Instead, predictions about future water supply availability and pumping impacts (out to 2045) are based on historic levels of precipitation, and assumptions concerning snowmelt timing are based on historic monthly average temperatures. Squaw Valley Groundwater Model 2015 Update (July 6, 2015), at 2. And beyond 2045, the date when Project buildout would be complete, no analysis of the impact of continued operation is performed at all. Given what we know about our changing climate, this is precisely the kind of “[a]rgument, speculation, unsubstantiated opinion or narrative” that “shall not constitute substantial evidence” under CEQA. CEQA Guidelines § 15384. Such a disregard for known climate science is irresponsible when analyzing an issue as critically important as water supply, especially in a time of drought and changing climactic conditions.

The omission of any discussion of climate change in the EIR’s analysis of hydrology and water quality, and the conclusory and unsubstantiated analysis of the resilience of the aquifer to expected climate change hydrology, buried in an appendix to
the EIR and responses to comments, presents a woefully incomplete environmental context and prevents the EIR from any meaningful analysis of the security of water supplies or the environmental impacts of proposed pumping.

The EIR’s description of the regulatory context suffers from a similarly crabbed and myopic view. The Olympic Valley Groundwater Basin is currently managed under a set of rules and regulations governing groundwater that is based on an anachronistic understanding of local hydrology. This permissive regulatory regime is intended for groundwater resources that are, broadly speaking, unbounded and do not flow in discernible patterns and channels. It does not require appropriative water right permits for the development of new water resources and would allow for the extraction of large amounts of water without meaningful oversight from the Water Resources Control Board’s Water Rights Division.

In contrast, the Olympic Valley Groundwater Basin functions as subterranean stream where groundwater flows through a defined relatively impermeable subsurface channel. See FEIR at 3.2.4-204 (comment No. 08a-78-79). Thus, according to clear legal precedent established by North Gualala Water Co. v. State Water Res. Control Board (2006) 139 Cal.App.4th 1577, the development of groundwater in Olympic Valley should rightly be subject to appropriative water right permits from the Water Resources Control Board. Accordingly, the State currently has the authority to assert jurisdiction over local water resources.

The EIR flatly dismisses the risk to the availability of water supplies that the disconnect between hydrological reality and the current management regime presents. It is not sufficient to dismiss the risk simply because nobody has yet asked the State to make an official determination about the existence of a subterranean stream in Olympic Valley. If threats to water supply due to overdevelopment become more imminent, the likelihood of such a request from other water users will only increase. See Siskiyou County Farm Bureau v. Department of Fish & Wildlife (2015) 237 Cal.App.4th 875. Should the State assert jurisdiction, there is no guarantee that the Project would receive rights in sufficient quantity, or of high enough priority, to meet projected future demands.

This regulatory risk is compounded by the EIR’s misapplication of the Truckee-Carson-Pyramid Lake Water Rights Settlement Act (Pub. L. No. 101-618, Title II [Nov. 16, 1990]) and Truckee River Operating Agreement (“TROA”) that, as of January 5, 2016, allocate and regulate the waters of the Truckee River Watershed. The accurate classification of the Olympic Valley Groundwater Basin as a subterranean stream would result in the development of water supplies in the Basin being counted
against California’s 10,000 acre-foot per year allocation of surface water, rather than the far more generous 40,000 acre-foot per year total allocation. As growth continues throughout the region, and California approaches this hard limit, TROA poses an additional threat to the use of water for condo-hotel highrises and a massive indoor water park that this Project proposes. The EIR fails to analyze or acknowledge the very real threat this poses to the availability future water rights.

b. **The FEIR’s Analysis of Impacts to Hydrology and Water Quality Remains Flawed.**

The FEIR has failed to correct crucial errors in the DEIR’s analysis of hydrology and water quality impacts. Unsupported assertions regarding the absence of environmental impacts, unrealistic assumptions concerning the volume, distribution, and timing of groundwater recharge, improperly low projected water demands, and unexplained modeling results must still be corrected.

i. **The EIR’s Groundwater Modeling Is Flawed Due to Unrealistic and Unsupported Assumptions, and a Design that Produces Unexplainable Results.**

Even an otherwise sound groundwater model will produce invalid results when unreasonable assumptions are made about key inputs. As in the case of the modeling used for determining water supply and environmental impacts, there are serious questions concerning model design and assumptions regarding key inputs like Project occupancy and the amount, timing, and distribution of groundwater recharge.

This letter will focus on two of the most egregious areas of concern regarding model design. The first is the use of pilot point methodology to calibrate the conductivity of the aquifer, a key measure of how easily water can move underground from one location to another. This allows the model to predict how pumping groundwater in one location will influence water levels in another, and is essential to make valid predictions concerning both sufficiency of supply and environmental impacts. As Dr. Myers observed in comments on the DEIR and again in his most recent technical memorandum, the conductivity patterns modeled in the aquifer are unlike anything found in nature. FEIR at 3.2.4-184–185 (comment no 08a-60g); Exhibit 10 at 10.

The second serious flaw is that, despite repeated requests for this information, the modeling contains no information concerning how closely the simulations match observed groundwater flows. Instead the model relies on a
comparison of predicted and observed groundwater levels to validate its results. The problem, as Dr. Myers points out, is that “groundwater levels could be matched perfectly for a vast range of flows just by changing the conductivity values.” Exhibit 10 at 11. Essentially, the modelers can adjust assumed conductivity of the aquifer to achieve a variety of results concerning groundwater levels.

The combination of conductivity patterns that do not occur in nature with a calibration technique in which conductivity is allowed to vary so long as other groundwater levels validate casts serious doubt on the model design. Theoretically, this combination could allow a model to produce targeted groundwater levels by assuming unrealistic and unfounded conductivity values throughout the aquifer, a result that the unnatural conductivity patterns suggests. Dr. Myers states simply, “the model report is not sufficient to provide the reader with confidence in the ability of the model to replicate existing conditions.” Exhibit 10 at 11.

In addition to problems of model design, flawed assumptions about Project demand and groundwater recharge are unaddressed by the EIR. To start, Project demand could dramatically exceed projections. Groundwater supply modeling assumes that, on average, nearly 45% the Project would be unoccupied during the course of a calendar year. WSA Update, Table 1. This rate was based on a survey of Squaw Valley properties from 2008-2014, which would be a reasonable method if this time period represented expected conditions. Instead, it is defined by a historically poor series of snow years and, despite contentions made in response to our comments that the recession ended in 2009, the weakest economy since the great depression. See Clark, Miles, Is Tahoe broken? (January 23, 2015), attached as Exhibit 12; Center on Budget & Policy Priorities, Chart Book: The Legacy of the Great Recession (July 13, 2016), attached as Exhibit 13. Either factor alone would be expected to drive down occupancy at a ski resort—together, they render these surveys wildly inconsistent with occupancy rates and associated water demands that can be reasonably expected should the Project achieve its stated objective to transform Squaw Valley into a world-class four-season resort destination. Indeed, as discussed above (supra, Part I.A(4)), more recent data suggests analogous occupancy rates much higher than used in the EIR.

Rather than update its analysis to reflect two more years of data, the FEIR doubles down on the supposed reasonableness of its occupancy assumptions. Bizarrely, the industry-wide data that it claims supports the reasonableness of its 55% occupancy assumption actually demonstrates precisely why more conservative assumptions are necessary. That survey data shows that a neighboring Squaw Valley property, the Red Wolf Lodge, had occupancy rates ranging from 75% to 100%. Industrywide occupancy
Placer County Planning Commission
August 2, 2016
Page 18

rates reached 61.6% when the economy was booming. FEIR at 3-67. These data points are discarded in favor of an analysis of a “comparable properties group” that only exceeded their assumed average annual occupancy rate once during the survey period. FEIR at 3-70. Although “comparable properties” are not defined in the EIR, it is safe to assume that this criteria includes pricepoint because the EIR dismisses the Red Wolf Lodge properties because they are “relatively inexpensive” at the $300/night price point. See Exhibit 14 (a basic room for two adults for the weekend of July 22, 2016 started at $309/night).

The problem with this analysis is that, despite even its best intentions to operate a luxury, world-class resort, Squaw Valley Real Estate or any future owner is not bound by this Project proposal to a specific business plan or price point. As a result, the EIR must analyze reasonably foreseeable occupancy rates, like those experienced by comparably positioned and located properties in Squaw Valley, including the Red Wolf Lodge, and those discussed above (supra, Part I.A(4)).

While the EIR underestimates how much water would be pumped from below the aquifer, it makes unfounded assumptions about the location, amount, and timing of available groundwater that minimize the environmental harms of pumping. The most obvious error concerns the EIR’s absurd assumption that recharge zone 9—characterized by the impervious parking lots, buildings, and walkways of existing development—would provide 60% of the recharge absorbed in undeveloped areas of the aquifer. This is a result that qualified experts characterize as “impossible.” See Exhibit 10 at 4. Because the new wells are proposed for the area directly beneath this recharge zone, the error makes it seem as if more water would be available for pumping, precisely where it is needed, than would actually occur. The result is to improperly underestimate impacts to the adjacent creek and meadow.

In addition to assuming that water can percolate through buildings and parking lots, the modeling simulates 5.6 times more recharge in the western portion of the aquifer than previous iterations. Exhibit 10 at 5. This massive increase in recharge makes it seem as if much more water would be available to meet pumping demands and streamflows, and causes the EIR to substantially underestimate environmental impacts due to groundwater drawdown. Exhibit 10 at 5. The reason for increased recharge is unaddressed in any of the environmental documents. Exhibit 10 at 5.
ii. The FEIR’s Analysis of the Environmental Impacts of Pumping on Squaw Creek and the Associated Meadow Are Not Supported by Substantial Evidence.

CEQA requires that the determination of the significance of environmental impacts be based on substantial evidence, or “enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion.” CEQA Guidelines § 15384.

Here, biological impacts to fish in Squaw Creek and vegetation in the associated meadow are analyzed in a technical memorandum by Garcia and Associates. Chad Taylor, one of the principal authors of the report, explained during testimony at the Squaw Valley Public Service District that they “used results from the [EIR’s groundwater] model to predict changes in streamflow in future scenarios as compared to baseline conditions.” Taylor, Chad, Squaw Valley Public Service District Board of Directors Meeting Minutes #803, p. 5 (July 28, 2015), attached as Exhibit 15.

Every expert, including the authors of the report, agree that the groundwater model is an inaccurate way to estimating streamflow impacts. The independent review commissioned by Sierra Watch found that “the DEIR does not estimate flow into or from Squaw Creek along its reach because the model was not calibrated to do so.” Exhibit 1 in our letter of July 16, 2015 on the DEIR at 16. This assessment was echoed by Derek Williams, the hydrologist who built the groundwater model Garcia and Associates rely upon. He stated flatly, that “the model is not calibrated or designed for streamflow impacts.” Exhibit 15 at 5. Even Mr. Taylor acknowledged that “the model does not very accurately address stream or surface flows.” Exhibit 15 at 5. To make matters worse, revisions to the water supply analysis that analyzed higher occupancy rates and greater Project water demand, discussed above, were not replicated in the study of environmental impacts. FEIR at 3-70.

Because the analysis relied on assumed occupancy rates below even those used by the WSA and groundwater modeling that is inapplicable to streamflows in Squaw Creek, the Garcia and Associates analysis underestimated associated biological impacts.
iii. The EIR’s Other Water-Related Impacts Analyses Remains Flawed.

The EIR continues to lack information necessary to evaluate the impacts from dewatering of construction sites. We commented that the EIR must describe what “dewatering” of construction sites entails and provided a list of necessary information. FEIR at 3.2.4-375 - 76 (comment no. 09-96). However, the FEIR provided further information only about which sites would require dewatering. See FEIR at 3.2.4-237 (response no. 08a-36). It did not provide explanation of other important issues that we identified, including how much water would likely be pumped, how dewatering would be conducted, or how frequently dewatering would occur during the construction process. Accordingly, the County’s response is incomplete, and the EIR continues to leave important questions necessary to understanding the Project’s impacts unanswered.

Further, the fact that Mitigation Measure 13-2b requires a dewatering plan and describes the plan’s elements does not replace the need for disclosure of impacts from dewatering, as the County claims. See id. (citing DEIR at 13-51). While the mitigation measure does list the required elements of the plan generally—such as, that the plan must identify “the frequency and estimated volume and rate of discharge,” DEIR at 13-51—the measure provides no information about what dewatering would actually look like, or what its impacts would be. Thus, the information provided in the mitigation measure is insufficient to disclose the actual impacts of dewatering and cannot be relied on to cure the shortcomings in the impacts analysis. See, e.g., Pub. Res. Code § 21061 (“The purpose of an environmental impact report is to provide public agencies and the public in general with detailed information about the effect that a proposed project is likely to have on the environment . . .”).

We also commented that the DEIR’s impacts analysis was inadequate because it improperly relies on permitting requirements to disclose impacts. Specifically, the DEIR’s statement that the stream water bypass diversions and dewatering would be subject to a NPDES permit and a CDFW streambed alteration agreement does nothing to disclose the Project’s impacts. FEIR at 3.2.4-376 (comment no. 09-97). In response, the County directs the reader to descriptions of a NPDES permit and a streambed alteration agreement, in various sections of the DEIR. FEIR at 3.2.4-193 (response no. 09-97). However, these permit descriptions do not describe what would happen on the ground for this particular Project. First, the description of the statewide NPDES General Construction Permit and the generic requirements for a pollution prevention plan under that permit does not explain how the particular plan that would be adopted for the Project here would lessen the impacts of the particular diversions and dewatering planned for the
Project. See DEIR at 13-33. Even worse, for the streambed alteration agreement, the EIR merely discloses that such an agreement is necessary, but does not provide any explanation whatsoever of what the terms of the agreement would, or even could, be. See DEIR at 6-30.

The FEIR also fails to provide any more information regarding surface water diversions and dewatering of streams to support its less-than-significant finding. See FEIR at 3.2.4-376 (comment no. 09-97). As we explained in our comments on the DEIR, requiring compliance with regulations and permitting requirements does not conclusively establish that impacts would be less than significant. See id. An EIR must contain more in support of such a finding. But here, the County’s response simply repeats that the permits and mitigation measures for other significant impacts would ensure impacts from streambed alteration and dewatering are less than significant. FEIR at 3.2.4-194 (response no. 09-97). This does not correct the DEIR’s error in relying on other agencies’ permitting regulations to excuse itself from a full impacts analysis. See, e.g., Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 716.

In our comments, we also warned that the DEIR’s evaluation of the impacts of groundwater pumping on interactions between groundwater and surface water was flawed. FEIR at 3.2.4-376 (comment no. 09-98). First, as we explain above, this analysis remains inadequate because it relies on groundwater modelling that is based on improper assumptions and questionable design, which were not corrected in the FEIR.

Next, we commented that the EIR’s modelling should have been calibrated to estimate flow into and from Squaw Creek, for which Dr. Myers explained there was sufficient data. FEIR at 3.2.4-376 (comment no. 09-98). In response, the County claims it did not have sufficient data to make this calibration because there exists no data for the first twelve years of the modelling period. FEIR at 3.2.4-240 (response no. 08a-47). However, as Dr. Myers explains in his evaluation of the FEIR, data from the entire period of record are not necessary to make the calibration; one year of data is sufficient, and those data exist. Exhibit 10 at 7-8.

Also, the FEIR does not correct the shortcomings of the hydrographs in Exhibits 12-23 – 13-27 in the DEIR. As Dr. Myers explains in his letter, the graphs fail to disclose information necessary to an impacts analysis, focusing more on groundwater depth than important temporal issues:

[The graphs indicate that] the time water level is below the stream bottom is less for baseline conditions. The increase in time the stream is dry [under
Project conditions] is more important than the actual level below the stream bottom because once the stream is dry the depth to water is not important. The FEIR fails to analyze the increased time the stream is dry. Because drying occurs annually, the changes are increases in time the stream is dry. The best analysis would be a statistical comparison among scenarios.

Exhibit 10 at 11. Additionally, the FEIR did not provide any water-level graphs for areas away from the streams, thereby ignoring any impacts related to drawdown under riparian and wet meadow areas. Id.

Finally, we commented that the DEIR was inadequate because it did not disclose impacts to Truckee River water quality. FEIR at 3.2.4-378 (comment no. 09-104). In response, the County directs the reader to response to comment number 09-56. FEIR at 3.2.4-495 (response no. 09-104). However, this response discusses only Truckee River streamflow. See DEIR at 3.2.4-478 – 79 (response no. 09-56). The only mention of water quality in that response is in relation to the conclusion that decline in streamflow in the Truckee River related to the Project would not itself cause a significant water quality impact. This does not respond to our comment that increased sedimentation in Squaw Creek cause by the Project may increase sediment and thus impact water quality in the Truckee River—-independent of any reduction in streamflow. The EIR must analyze this potentially significant impact.

c. Mitigation Measures Proposed in the FEIR Do Not Ensure that Significant Impacts from Groundwater Pumping Will Be Avoided.

In our comments on the DEIR, we pointed out that proposed mitigation measures 6-1c and 13-4, intended to prevent potentially significant environmental impacts from groundwater pumping, were flawed, improperly deferred mitigation to a later date, and relied upon criteria unrelated to environmental impacts. FEIR at 3.2.4-359 (comment Nos. 09-50 – 09-52). In response, the FEIR significantly modifies mitigation measure 6-1c. Unfortunately, the proposed changes are not sufficient to correct the measure’s inadequacies.

Mitigation is improperly deferred when conditions triggering mitigation allow a lead or responsible agency to make determinations about the significance of an impact after granting project approvals, and outside an arena where public officials are accountable. Madera Oversight Coalition v. County of Madera (2013) 199 Cal.App.4th 48, 81-82. In Madera, the court found that mitigation intended to protect archeological
resources from destruction were improperly deferred because it called for a qualified archeologist to evaluate and verify the significance of these resources when they were encountered during the course of the proposed development. \textit{Id.} at 71.

Here, like in Madera, the EIR identifies a potentially significant impact: “induced groundwater reduction (nearest the wells) that could result in loss or degradation of meadow habitat . . . would be a potentially significant impact.” DEIR at 6-45. Unfortunately, the proposed mitigation designed to guard against this impact, measure 6-1c, improperly defers mitigation by conditioning any actions on a subsequent determination that groundwater pumping would, in fact, significantly impact the meadow. Specifically, it requires that corrective action be taken only if monitoring and surveys, conducted by the applicant, “indicate that riparian and/or wet meadow vegetation is being lost and/or degraded at levels that could impair the viability and value of the wet meadow and/or riparian habitat, and that change is correlated with lowered groundwater levels as indicated by monitoring wells and pumping data.” FEIR at 2-17. Not only are these standards impermissibly vague and ill-defined, the measure includes no provisions for public oversight or involvement in these determinations. Thus, it represents precisely the same kind of impermissible, unaccountable subsequent verification of environmental impacts prohibited in Madera, and fails to protect either meadow vegetation from environmental harm, or the EIR from legal inadequacy.

Further, the County cannot rely on the Squaw Valley Public Service District (“SVPSD”), an entity that neither they nor the applicant have authority over, to mitigate the impacts of groundwater pumping to a point of insignificance. As the SVPSD points out in written comments on the FEIR, this reliance is improper as it is “effectively placing the responsibility of the viability of the vegetation along Squaw Creek on the District.” Geary, Mike. \textit{RE: Specific Comments on Final EIR -- Village at Squaw Valley Specific Plan (May 6, 2016)} at p. 3, attached as Exhibit 16. The letter points out the major flaw in this plan, namely that the "responsibility to successfully implement mitigation must be the duty assigned to the project proponent and not the Squaw Valley PSD." \textit{Id.} Considering the expense and controversy that would be associated with modifying system-wide pumping operations, an action that would impact all of SVPSD’s customers, its reluctance to assume this responsibility is justified. Even should SVPSD welcome the task (and it does not), it is reasonable to doubt the ability of a small public service district to independently curtail water deliveries based on a set of unenforceably vague and subjective standards.
d. The EIR Still Lacks An Analysis of Cumulative Impacts to Truckee River Water Quality.

Finally, the FEIR does not correct the DEIR’s failure to consider the Project’s contribution to cumulative impacts on water quality in the Truckee River. See FEIR at 3.2.4-380 (comment no. 09-113). In response, the County, as before, directs the reader to its response to comment number 09-56. FEIR at 3.2.4-497 (response no. 09-113). However, as we explained, this response does not discuss cumulative impacts to water quality from increased sedimentation—it considers only reduction of streamflow. See FEIR at 3.2.4-478 – 79 (response no. 09-56). As such, this analysis remains incomplete.

2. The EIR’s Analysis and Mitigation of the Project’s Impacts on Biological Resources Remain Inadequate.

a. The EIR Continues to Improperly Rely on Future Mitigation to Avoid Providing a Description of the Project’s Existing Setting.

Despite our detailed comments explaining the inadequacies in the DEIR’s biological resources analysis, the FEIR has not corrected many of these issues. For example, we explained that the DEIR’s description of the environmental setting for biological resources was legally inadequate because it failed to include surveys for sensitive habitats and species, including a completed wetlands delineation. FEIR at 3.2.4-362, -363-64, -368 (comments nos. 09-57 – 09-59, 09-62 – 09-64, 09-66, 09-76). In response, the County attempts to excuse its incomplete description of the area’s biota by labeling the EIR a “programmatic” document. FEIR at 3.2.4-480 (response no. 09-59). As we explained above, the County cannot evade the detailed analysis required by CEQA merely by declaring the document “programmatic”—it is the nature of the project that matters. And here, the nature of the Project calls for a more specific description of the environmental setting than the EIR provides. See supra, Part I.A(1).

Programmatic EIRs may contain more general information when there are unknown details of future actions. See id. Here, this is not the case, despite the County’s claims to the contrary. See id.; see also FEIR at 3.2.4-481 (response no. 09-60). Rather, this Project proposes entitlements that would ensure development of a pre-defined resort at a designated location. Indeed, the County admits elsewhere in its responses to comments that “the applicant team is beginning to collect further detailed information on baseline conditions in Squaw Creek to assist, in part, with developing specific design and
execution elements of future monitoring and restoration activities.” FEIR at 3.2.4-480 (response no. 09-58). The FEIR does not explain why the surveys—being conducted now, before the Project is further developed—could not have been conducted prior to release of the EIR.

The County points to these ongoing surveys—along with mitigation measures that require surveys to be conducted before construction happens—in defense of its failure to provide complete information on the Project’s environmental setting. See FEIR at 3.2.4-82 – 83 (responses nos. 09-61 – 09-64), 3.2.4-276 (response no. 08b-13). This is not sufficient. The public and decision-makers need this information now to evaluate the Project, before the County commits itself to a course of action. See Citizens of Goleta Valley, 52 Cal.3d at 564. As we explained in our DEIR comment letter, CEQA does not allow after-the-fact studies as “mitigation” to substitute for the information necessary to inform the public and conduct informed decision-making. FEIR at 3.2.4-363 (comment no. 09-60) (citing Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d 296, 307). The County must wait until the applicant has completed full surveys of the Project area’s biological resources, and then include that information in the EIR and use it to analyze the Project’s significant impacts and to develop appropriate mitigation measures—and then recirculate the EIR. To do otherwise violates CEQA.3

b. The FEIR Does Not Correct the DEIR’s Failure to Consider the Ongoing Drought.

We also commented that the DEIR’s biological resources section did not analyze the Project’s impacts in light of California’s ongoing drought. FEIR at 3.2.4-364 (comment no. 09-65). The County claims we are wrong and asserts that the DEIR “discusse[d] current drought conditions and potential effects on already stressed trees.” FEIR at 3.2.4-483 (response no. 09-65).4 In reality, this was not a “discussion” of current drought conditions. The DEIR merely stated, in a section on construction impacts from tree removal, that “[i]n the current drought, already stressed trees from lack of water

3 In its responses to comments, the County misinterprets our comment number 09-60 as being about deferral of mitigation, and it responds according to that misconception. In that comment, however, we criticized the DEIR’s reliance on mitigation to provide the surveys necessary to adequately describe the Project’s environmental setting. See FEIR at 3.2.4-363 (comment no. 09-60).

4 The FEIR cites this discussion as occurring on page 6-76 of the DEIR. It is actually on page 6-70.
would be even more susceptible" to construction-related impacts. DEIR at 6-70. This is the only place in the EIR's biological-resources section where the word "drought" is even mentioned. Nowhere does the EIR discuss drought-related impacts on any other biological resources, like sensitive plant species or riparian wildlife. The County's comment implying otherwise is disingenuous, and this fatal inadequacy remains.

c. The FEIR Does Not Correct Numerous Other Inadequacies in the DEIR's Analysis of Impacts to Biological Resources.

We also commented that the FEIR erred because its "analysis of operational impacts to sensitive habitats [was] 'limited to the creek bed of Squaw Creek and areas where the creek bed is located less than a foot from the bank.'" FEIR at 3.2.4-364 (comment no. 09-66 (quoting DEIR at 6-42)). Accordingly, as the DEIR admitted, "the data used in [the DEIR's] analysis does not take into account the meadow vegetation that may be several feet above the creek bed or how the groundwater levels for meadow vegetation away from Squaw Creek might be affected." DEIR at 6-44. The FEIR does not correct this deficiency, again relying on the County's claim that labelling the EIR "programmatic" insulates it from conducting an adequate analysis of the Project's foreseeable impacts. As we have explained, this is not a sufficient basis for avoiding CEQA's requirement that an EIR contain a complete analysis of all foreseeable impacts.

Further, the FEIR fails to correct the shortcomings in the DEIR's analysis of the impacts of groundwater drawdown on sensitive habitat like wetlands and riparian vegetation. Specifically, the FEIR fails to supply the information necessary to such an analysis, including but not limited to disclosure of the duration of critically low levels of groundwater and a map of the areas impacted by such drawdown. See Exhibit 10 at 6-7. References to hydrographs are insufficient because the graphs do not directly present frequency/duration information. See id.

d. The EIR Still Fails to Adequately Mitigate for the Project's Significant Impacts to Biological Resources.

While we believe the revisions to Mitigation Measure 6-1c made in the FEIR are a step in the right direction, the measure continues to contain critical flaws. These problems must be corrected to ensure that the measure adequately mitigates for the Project's groundwater-related impacts to biological resources. First, as noted by SVPSD in its May 6, 2016 comment letter on the FEIR, the responsibility for implementing mitigation must be on the Project applicant, not on another entity. Exhibit 17 (SVPSD
FEIR Letter at 2). Accordingly, the primary mitigation measure—adjusting SVPSD’s pumping regime to minimize drawdown—cannot be relied on.

SVPSD suggests a reasonable and realistic alternative in its letter. Specifically, if groundwater levels are too low to support riparian or wet meadow vegetation and supplemental irrigation from snowmaking wells is unavailable, the Project applicant must be required to reduce the Project’s water demands so as to provide adequate water for irrigation. This could be achieved by reducing the amount of water used in swimming pools or the indoor water park, which would consume vast quantities of water.

Other remaining problems with Mitigation Measure 6-1c include the five-year-interval monitoring frequency until 30% occupancy may miss some threshold effects of groundwater drawdown as pumping rates increase. See Exhibit 10 at 8. Further, monitoring must continue beyond five years after full buildout until it includes a significant drought period. See id.

We also commented that the DEIR did not provide for adequate mitigation of impacts to the yellow warbler and olive-sided flycatcher. See FEIR at 3.2.4-371 (comment no. 09-84). The County claims that, because the Project applicant must consult with CDFW if construction would impact these birds’ habitat, impacts would be mitigated. FEIR at 3.2.4-490-91 (response no. 09-84). However, the language of the mitigation measure puts no obligation on the applicant to follow CDFW’s recommendations; it provides only that buffers and operating-period limitations “will be established through consultation with CDFW.” DEIR at 6-57. This is weak mitigation, leaving too much discretion to the applicant.

Instead, the EIR should require that the applicant apply the buffers and other restrictions, as identified by CDFW. And indeed, the EIR does exactly that for the willow flycatcher in the immediately following paragraphs, requiring that buffers be established “at a distance directed by the appropriate regulatory agency,” and that the buffers may only be “reduced if approved by CDFW.” DEIR at 6-57. The EIR does not explain why the yellow warbler and olive-sided flycatcher do not have the same CDFW-determined protections that the willow flycatcher does. These sensitive bird species should receive the same protective mitigation afforded to the willow flycatcher.
e. The EIR’s Analysis of Cumulative Impacts to Biological Resources Remains Inadequate.

The FEIR has also failed to correct the deficiencies in the EIR’s analysis of cumulative impacts to biological resources. In our comments on the DEIR, we cautioned that the cumulative impacts analysis must take into account the fact that Sierra Nevada meadows, like those in the Project area, “are some of the most altered, impacted, and at-risk landscapes in the area.” FEIR at 3.2.4-373 (comment no. 09-90). Our statement quoted the attached report of our expert, who cited a scholarly article in support of this conclusion. See id. Instead of supplying an adequate response to our comment, the County ignores our provided expert opinion and scientific evidence, claiming we supplied no factual data in support of this statement regarding the heavily impacted nature of Sierra Nevada meadows. FEIR at 3.2.4-492 (response no. 09-90). Obviously, this is not true, and the County has failed to respond to this substantive comment.

The County further attempts to downplay the Project’s contribution to cumulative impacts by stating that while “[m]eadow habitat may be lost or degraded through construction and operations as a result of the [Project],” that habitat “would not experience a net loss from the project in the Sierra Nevada.” FEIR at 3.2.4-299 (response no. 08b-44) (emphasis added). But cumulative impacts are not always experienced on a large scale. The EIR ignores the cumulative impacts caused by more local or regional net loss of meadow habitat, thus failing to provide a complete analysis.

We also commented that the DEIR’s cumulative impacts analysis disclaimed any cumulative contribution from the Project to impacts to fish and aquatic species because the EIR provided for mitigation “to reduce these impacts to a less-than-significant level.” DEIR at 18-13. As we have explained, a project’s less-than-significant direct impacts may nonetheless contribute to a cumulatively significant impact. See CEQA Guidelines § 15355(b). So, simply stating that a project’s direct impacts will be less-than-significant is insufficient to support a conclusion that the Project’s contribution to a cumulative impact would be likewise insignificant.

In response, the County claims that, “[f]or each project specific impact to fish and aquatic resources, the project’s contribution to cumulative effects was assessed and a determination was made that the less than significant individual project effects . . . would not make a significant contribution to significant cumulative impacts.” FEIR at 3.2.4-493 (response no. 09-91). If the County ever made such an analysis, it did not show its work. In the DEIR’s cumulative impacts analysis, there is no evidence that the County made an individual assessment of the Project’s potential contribution to
cumulative impacts, nor does it cite to any. The DEIR merely states that because the direct impacts have been mitigated, the Project’s contribution to cumulative impacts will be less-than-significant. DEIR at 18-13. This is—as we have explained—an improper cumulative-effects analysis, and the FEIR has not corrected this serious deficiency.

We also commented that the County must analyze cumulative impacts to fish and aquatic habitats in the Truckee River—not just in Squaw Creek. FEIR at 3.2.4-493 (response no. 09-92). The County, however, claims that the Project would not have an adverse cumulative impact on fish and aquatic habitat in the Truckee River because the Project would have no adverse effect on the Truckee River. FEIR at 3.2.4-493 (response no. 09-92). However—in direct contrast to this claim—the DEIR admits that the Project would have a potentially significant impact on fish and aquatic habitats in the Truckee River water quality during its twenty-five-year construction period, and provides mitigation for these impacts. DEIR at 6-75 – 6-76. However, reducing direct impacts to a less-than-significant level is not a sufficient basis for determining there is no contribution to cumulative impacts. Accordingly, the EIR still lacks an adequate analysis of cumulative impacts to fish and aquatic habitats in the Truckee River.

3. The EIR’s Analysis of, and Mitigation for, the Project’s Transportation Impacts Remain Inadequate.

Sierra Watch and MRO Engineers identified numerous flaws in the DEIR’s analysis of transportation impacts. The response to the vast majority of these comments is lamentably, denial. Indeed, most of the public’s concerns about the Project’s transportation impacts are rejected out of hand. Our comments remain relevant—and have yet to be adequately addressed. Below, we identify a few of the most egregious examples of the EIR’s legal inadequacies.

a. The EIR Substantially Underestimates the Project’s Trip Generation.

The EIR uses an unorthodox approach to determining how much traffic the Project would add to area intersections and streets. It bases the Project’s trip generation on the amount of parking that would be provided by the Project. DEIR at 3.2.4-332. As the attached MRO Engineers Report explains, such an approach is inconsistent with sound transportation engineering practice and results in a substantial underestimation of the number of trips that would be generated by the Project. See MRO Engineers Report, May 25, 2016, attached as Exhibit 18. The MRO Report states, “there is simply no connection between the number of parking spaces and the volumes of traffic generated.
[by a project].” *Id.* This approach becomes even more suspect because, as we explain below, the Project would provide a grossly insufficient supply of parking.

The FEIR concedes that parking supply is typically not used in the estimation of a project’s trip generation, but claims that when there are “very special circumstances” and a “substantial amount of empirical data” that help explain travel patterns, such an approach is acceptable. FEIR at 3.2.4-332 (response no. 08d-6). Yet, the EIR does not provide any such “empirical data” to support its ill-conceived approach, let alone a substantial amount of data. While the FEIR claims the parking in the Plan area is a closed system that can be controlled by the applicant, as set forth below there is no evidence to support this position. The EIR may not rely on parking supply to calculate the Project’s trip generation because it lacks sufficient evidentiary support and because such an approach substantially underestimates the Project’s environmental impacts including but not limited to traffic, emergency response, air quality, greenhouse gas emissions, and noise.

The EIR’s approach to estimating trip generation for the Project’s indoor water park (called the “Mountain Adventure Center”) is also particularly disingenuous, and as discussed in the MRO Engineers May 25, 2016 Report, erroneous. According to the most recent proposal, the applicant proposes to build a *90,000 square foot* indoor water park with roughly the same footprint as a big box store such as a WalMart or Home Depot—and about three times as tall. The indoor water park would include an indoor/outdoor pool system, water slides, indoor rock climbing, a 300-seat movie theater, a 30-lane bowling alley and a multi-generational arcade. The exact number of visitors is a bit unclear but could range from about 300,000 to about 475,000 per year. *See* Exhibit 18 at 3, citing the May 5, 2016 LSC Transportation Consultants memorandum from G. Shaw to C. Hosea, “Additional Information on MAC Trip Generations,” May 5, 2016.

Notwithstanding this massive array of uses and huge number of anticipated visitors, the EIR asserts that the water park would generate almost no traffic (only 19 trips in the afternoon peak hour!). FEIR at 3.2.4-333 (response no. 08d-8 ). The EIR’s novel approach to trip generation hinges entirely on a memo that purports to assert that “the financial success of a water park depends on a high proportion of guests that are attending as part of a hotel package.” *See* FEIR Appendix E: Mountain Adventure Camp Trip Generation memo page 1 which cites to the *Market Feasibility Study and Financial Analysis report for the Proposed Indoor Water Park and Adventure Center, Squaw Valley Far East Road Olympic Valley, Placer County, California*, prepared by Hotel and Leisure Advisors, July 23, 2013. Despite this statement, we can find no evidence in the record to support this unusual assumption. In fact, the Specific Plan asserts just the
opposite; the stated purpose of the water park is to serve as a new amenity that draws recreational visitors, which includes day visitors. See, e.g., Specific Plan at 5-31 (stating that Squaw Valley will "promot[e]" use of the indoor water park for day visitors).

Questions relating to the amount of traffic that would be generated by the indoor water park are not esoteric. By the EIR’s own admission, traffic generated by the overall Project would result in gridlock at numerous locations. At the same time, the indoor water park is one of the most controversial components of this Project. For this reason, Sierra Watch is concerned that the applicant is seeking every opportunity to minimize the perceived effect that the Project—and the indoor water park specifically—would have on traffic conditions.

It appears highly unrealistic that a massive water park would generate only 19 trips in an afternoon peak hour. Consequently, we requested that MRO Engineers conduct an independent assessment of the trip generation rates identified in the EIR. As the MRO Report explains, the EIR’s indoor water park trip generation estimates included significant errors which, when corrected, would substantially increase the amount of traffic projected to be generated by the indoor water park. See Exhibit 18. Specifically, the trip generation estimates were based on erroneous assumptions regarding the size of the indoor water park and the number of hotel package guests. Indeed, MRO determines that the number of daily vehicular trips would be almost three times higher than the number of trips identified in the EIR. Id. at 10. Moreover, had the EIR relied on a standard trip generation methodology, such as calculating the number of trips based on the water park’s square footage—as is the common practice—the EIR would have determined that the indoor water park would actually generate 173 trips in the PM peak hour instead of the 19 trips the EIR suggests. See MRO Report, Table 4, at pg. 9 (citing the ITE Trip Generation Manual, 9th Edition, 2012).

As we explained in our comments on the DEIR, if the applicant intends to base its analysis of the indoor water park’s traffic on the fact that the vast majority (64%5) would already be staying at one of Squaw Valley’s lodges, it must condition the Project accordingly. See FEIR at 3.2.4-383 (Comment 09-119, footnote number 4). For example, the County could require that the applicant place a limitation on the number of visitors not staying at one of the Squaw Valley lodges to 502 per day (36% of 1394 (the projected attendance per day6) = 502). Since the applicant intends to tightly control the

5 See FEIR Appendix E at page 1.
6 See FEIR Appendix E at page 1.
attendance at the indoor water park, this condition would not appear to be at all burdensome. See FEIR Appendix E at 3.

b. The EIR’s Analysis of, and Mitigation for, Impacts Relating to Emergency Access is Legally Inadequate.

According to federal officials, stubborn drought conditions and an epidemic of dead and dying trees mean California is facing a potentially catastrophic fire season. See “Spike in dead trees adds to fire danger,” San Francisco Chronicle, May 18, 2016, attached as Exhibit 19. The Project site is particularly at risk since the site and surrounding lands are designated as a very high fire hazard severity zone.7 DEIR at 15-2 (emphasis added). Access to Squaw Valley is limited by the configuration of the Valley and the Truckee River canyon; there is only one means of ingress and egress (Squaw Valley Road) and a single road (SR 89) that connects Squaw Valley to adjoining communities. Id. at 15-13. Numerous residents and three schools are located along or adjacent to Squaw Valley Road. Id. at 15-2. Thus, the proposed Project would cause LOS F, i.e., gridlock, along the sole route of ingress for emergency vehicles and egress for Olympic Valley residents and resort visitors attempting to flee in the event of a wildfire or other emergencies such as avalanches. Id. at 9-55 – 9-63

The DEIR includes two significance criteria that are intended to gauge whether the Project would pose a significant risk in terms of emergency response and wildfire evacuation. It states that the Project would result in a significant impact if it would: (1) impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; and (2) expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. DEIR at 15-13. The DEIR discussed these impacts in two locations: (1)

7 CAL FIRE developed its Fire Hazard Severity Zone maps using a science-based and field tested computer model that assigns a hazard score based on the factors that influence fire likelihood and fire behavior. Many factors are considered, such as fire history, existing and potential fuel (natural vegetation), flame length, blowing embers, terrain, and typical weather for the area. There are three hazard zones in the state: moderate, high, and very high. See Fact Sheet: California’s Fire Hazard Severity Zones, California Department of Forestry and Fire Protection Office of the State Fire Marshall, available at: http://www.fire.ca.gov/fire_prevention/downloads/FHSZ_fact_sheet.pdf; accessed April 25, 2016.
Impact 15-4: Interference with an adopted emergency evacuation plan; and (2) Impact 15-6: Expose people or structures to a significant risk of loss, injury or death from wildfire. For both impact discussions, the DEIR concluded that, with mitigation, the proposed Project would not result in significant impacts by interfering with an adopted emergency response plan, nor would it expose people or structures to an area with a high risk of wildfire. FEIR at 3-21. The FEIR, like the DEIR, fails to adequately analyze these impacts. In addition, the EIR lacks the necessary evidentiary support to ensure that these impacts would actually be mitigated to a less than significant level.

As an initial matter, the EIR fails to include any standards or thresholds for assessing the significance of impacts relating to emergency response and wildfire evacuation. A threshold is a numeric or qualitative level at or below which impacts are normally less than significant. CEQA Guidelines § 15064.7(a); see also Protect the Historic Amador Waterways, 116 Cal.App.4th at 1107. This flaw leads to a cascade of other failures: without a threshold, the EIR cannot do its job. Thus, for example, while the DEIR asserted that the Project would not interfere with an adopted emergency evacuation plan, it provided no standard by which to evaluate this impact’s significance.

Given the Project’s location in a very high fire severity zone and the severely constrained vehicular access, our letter requested a thorough evaluation of how the Project would interfere with emergency evacuation and response during a wildfire scenario. We explained that other jurisdictions have modeled such scenarios taking into account the site’s topography, fuel loads, atmospheric conditions, and fire intensity. We provided a copy of the Fire Behavior Modeling protocol that San Diego County has used to compute fire danger indices based on the National Fire Danger Rating System. See San Diego County Guidelines for Determining Wildland Fire and Fire Protection, submitted under separate cover. The FEIR does not respond to this comment and does not conduct this necessary analysis. Instead, the FEIR punts the entire evaluation until after Project approval.

According to the FEIR, the applicant now intends to prepare an Emergency Preparedness and Evacuation Plan (“EPEP”). See FEIR at 2-72. This EPEP is intended to “address the potential risks from wildfire” and will be submitted to the Board of Supervisors when the Board considers Project approval. Id. This approach runs contrary to CEQA as environmental review that should happen before project approval, with full public input. A plan presented as a fait accompli at the time of project approval “will inevitably have a diminished influence on decision making. Even if the study is subject to administrative approval, it is analogous to the sort of post hoc rationalization of agency actions that has been repeatedly condemned in decisions construing CEQA.” Sundstrom,
202 Cal.App.3d at 307. Moreover, the EIR cannot rely on the preparation of an EPEP to conclude that impacts would be less than significant because it fails to set forth sufficient specific, measurable performance standards for the EPEP that could justify later formulation of mitigation methods targeted to meet those standards.

The FEIR’s approach to now require the preparation of the EPEP also demonstrates the inadequacy of the EIR’s impact analysis, as the EPEP proposes to include the exact information we explained was necessary to evaluate the Project’s impacts. According to the FEIR, the EPEP will include: a description of existing conditions pertaining to wildfire; a discussion of topography, vegetation, climate, fire history, fire hazard severity zones; the capabilities of the SVPSD/SVFD and other resources; emergency planning measures; and an evacuation plan, which will include specific responsibilities for first responders and other agencies that would be involved in emergency evacuation; typical evacuation scenarios; and a coherent road map for which to prepare and guide VSVSP staff in the event of an emergency. FEIR at 2-72.

Apparently recognizing its legal vulnerability, the FEIR does now disclose the length of time that it would take residents and visitors to evacuate Olympic Valley. The results of this assessment are terrifying. Once the Project is built, it would take about five hours for all vehicles to exit the Olympic Valley. FEIR at 3-22. Upon full buildout in 2040, and assuming cumulative development throughout the region, it would take about 6.6 hours for all vehicles to exit the Valley. Id. Under a worst-case full build out scenario, assuming an evacuation is ordered during a period of 100-percent occupancy, and while a large special event is occurring, it is estimated that it could take up to 10.7 hours for every vehicle to leave the Valley. Id. As alarming as these lengthy evacuation times are, they do not reveal what these motorists would do once they encounter gridlock on SR 89. Nor does this evacuation scenario provide any indication of how long it would take emergency vehicles to access the scene of the wildfire, e.g., in the wildlands behind the resort.

Despite the fact that Squaw Valley Road would be so gridlocked that it could take anywhere from 5 to 11 hours to vacate Olympic Valley and a similar amount of time for emergency vehicles to access the emergency, the FEIR defies common sense when it asserts that “this does not necessarily generate a safety risk.” Id. Indeed, the SVPSD’s fire chief has asserts just the opposite. He explains that, “people are reluctant to leave and tend to do so at the last minute when emotions are high and conditions are terrible – visibility is obscured by smoke and exiting residents encounter apparatus attempting to access affected areas. It is a chaotic and dangerous situation for everyone involved.” See letter from Pete Bansen, SVPSD’s Fire Chief, to Placer County Board of
Supervisors, May 6, 2016, at 2, submitted as Exhibit 17 at 3. By not providing a comprehensive analysis of these risks, the public and decision-makers are kept in the dark as to the inherent danger that would accompany the Project.

Notwithstanding the superficial analysis of the Project’s impacts relating to emergency response and wildfire evacuation access, the EIR suggests that the implementation of a few measures would reduce any impacts to less than significant levels. This conclusion is unavailing; the measures simply do not and cannot reduce to insignificance the severe impacts caused by the Project.

First, the DEIR relies on a measure (MM 15-4) that calls for the implementation of MM 9-8, which in turn calls for the applicant to prepare a construction traffic management plan. DEIR at 9-67. Similar to other measures in the DEIR, this measure provides neither performance standards nor guidelines, and the items to be included in the construction traffic plan are vague and ineffectual, e.g., “preservation of emergency vehicle access;” and “remov[e] traffic obstructions during emergency evacuation events.” Id. When a lead agency relies on mitigation measures to find that project impacts will be reduced to a level of insignificance, there must be substantial evidence in the record demonstrating that the measures are feasible and will be effective. 

Sacramento Old City Assn. v. City Council of Sacramento (1991) 229 Cal.App.3d 1011, 1027; Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 726-29. Here, there is no evidence, let alone substantial evidence. Moreover, based on the applicant’s poor track-record managing traffic, there is no indication that the construction plan would be sufficient to ensure adequate emergency access. According to the SVPSD, emergency vehicle access is already regularly impeded by traffic on Squaw Valley Road. See Exhibit 17 at 2. The District explains that during peak traffic periods and especially during three-lane operations when there are no shoulders for motorists to move to in order to allow an emergency vehicle to pass, emergency vehicles must regularly drive into oncoming traffic, risking both the safety of the emergency responders and approaching motorists. Id.

The second measure (MM15-6a) calls for the applicant to comply with CAL FIRE regulations. DEIR at 15-21. Yet these regulations simply call for subdivision lot design and documentation that fire protection and suppression services will be available for the subdivision. While important, these regulations do nothing to address inadequate emergency access and do very little to ensure that the Project would not pose a significant risk of loss, injury, or death involving wildland fire or other emergency scenario. Moreover, presumably every project that gets approved in the state, especially
in high wildfire severity zones, is required to comply with applicable state regulations yet wildfires and other disasters continue to occur, structures are destroyed, and lives are lost.

The last measure (MM 15-6b) calls for the implementation of MM 14-7b, which calls for the applicant to enter into an agreement with SVPSD for additional staffing and equipment. Again, this measure is important yet, under the best circumstances – and at final buildout of the Project in 2040 – there would be only six fire protection staff and a new fire substation in western Olympic Valley capable of housing a two-person crew. DEIR at 14-44,45. While these efforts might help to address impacts during minor emergencies, they would do nothing to address the dire emergency evacuation situation that would accompany a major wildfire or other emergency in the Project vicinity. Equally important, a few firefighters would not be able to tackle a major wildfire or multiple wildfires. For example, in August 2015, in Los Angeles, 10,000 firefighters were needed to tackle several fires. The Rocky Fire alone required 3,200 fire fighters. The critical component to protecting public safety is to ensure that Squaw Valley Road remains free of traffic jams. The three lackluster mitigation measures offered by the applicant would do nothing to facilitate free-flowing traffic.

Finally, it is important to point out that certain of the information in the DEIR pertaining to emergency vehicle access and wildland fire evacuation planning has not even been vetted with the SVPSD fire chief. For example, the EIR calls for locating a fire truck at the west end of the valley on peak days. Yet, this suggestion came as a “complete surprise” to the Squaw Valley Fire Chief. See Exhibit 17 at 2 stating that “no such proposal has ever been made and the statement that this is something that anyone is ‘working’ on is simply not true.”

In sum, the EIR is legally inadequate because it does not evaluate the potential risks associated with wildfire evacuation and emergency response or propose mitigation measures capable of reducing these risks to a level of less than significant.

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c. The EIR Does Not Describe Existing Parking Deficiencies or Analyze the Environmental Impacts that Would Result from the Project’s Constrained Parking.

Squaw Valley already experiences a severe parking shortage. Parking is so deficient in the area that motorists are currently forced to park along Squaw Valley Road. According to the Squaw Valley Fire Department “virtually ALL of the current issues associated with traffic and circulation in Squaw Valley – and the ripple effects on SR 89, SR 28, Donner Pass Road, West River Street and Eastbound I-80 – have their basis in poor planning and management/ operation of parking at Squaw Valley Resort.” FEIR at 3.2.7-4 (Comment LL1-6; emphasis in original). It is for this very reason that we requested that the FEIR include a thorough evaluation of current parking supply and demand deficiencies, explaining that without an accurate accounting of existing parking conditions, an assessment of future parking needs is all but meaningless. Id. at 3.2.4-386 (Comment 09-126). The FEIR fails to provide any response to this comment and fails to provide this important information.9

The proposed Project would exacerbate this parking shortage because it does not provide enough parking to meet anticipated demand. The applicant intends to provide only 0.75 parking spaces per one-bedroom unit, 1.00 guest space per two-bedroom unit, and 1.25 spaces per three-bedroom unit. DEIR, Appendix G; FEIR at 3.2.4-321 (Comment 08d-15); FEIR at 3.2.4-332 (Response 08d-6). According to MRO Engineers, this parking ratio is strictly an assumption and is not based on any analysis of actual parking conditions at Squaw Valley. Id. MRO further explains that the Project’s proposed amount of parking is entirely insufficient; guest parking ratios should be as high as 1.55 spaces per unit.10 See Id. at 3.2.4-322 (Comment 08d-15).

Parking deficiencies may be further exacerbated because the EIR appears to substantially underestimate the amount of parking that would be required for the Project’s employees. As discussed in Part I.B(11) below, the applicant appears to have based its

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9 The FEIR refers to response to 08d-15 (FEIR at 3.2.4-336); which in turn refers to the master response relating to parking supply. This master response does not address existing parking conditions at all. See FEIR at 3-23.

10 It is important to note here that the FEIR explains that the Project’s parking rate of 0.75 space per 1-bedroom unit excludes the 0.11 space per unit associated with employees. FEIR at 3-23. It is unclear why the County believes this employee parking rate is relevant to the amount of parking required for the residential portion of the Project.
employee parking demand ratios on full-time equivalent ("FTE") employees rather than the actual number of employees who would drive to Squaw Valley each day. Two employees working half-time would count as only one FTE, but both of these employees would likely require a parking space.

The EIR asserts that that a project’s parking shortfall impacts are not considered a significance criterion under CEQA. FEIR at 3.2.7-7 (response LL1-6) and DEIR at 9-55. This is correct. However, CEQA does require an EIR to analyze a project’s impact on the environment. Any environmental impacts foreseeably resulting from the Project’s parking deficit require analysis and mitigation. As we explained in our comments on the DEIR, the failure to provide sufficient parking would have far-reaching secondary environmental consequences since parking is a fundamental component of the transportation system.

In other geographic locations, a project that proposes insufficient parking supply may simply cause motorists to look for other parking opportunities in, for example, adjacent neighborhoods, shopping centers, etc. Here, as the FEIR concedes, there are no other overflow parking areas. FEIR at 3.2.4-332. Notwithstanding this fact, the EIR fails to examine the environmental implications from this severe parking shortage. Would motorists attempt to park outside the designated parking lots? Would they park illegally, potentially blocking driveways, street shoulders or fire hydrants? How long would motorists have to circle looking for that rare parking spot. What would be the effect on traffic, emergency access and emergency response? How would circling and idling vehicles impact criteria, toxic and greenhouse gas emissions? Would motorists attempting to maneuver through traffic jams honk their horns to get other cars to move? What effect would this have on noise levels and the overall livability of adjacent neighborhoods? Would circling vehicles interfere with transit service in the area or cause a safety risk to pedestrians and bicyclists?

Rather than thoroughly analyze these types of environmental impacts caused by the Project’s severe parking shortage, the FEIR simply asserts that the applicant has the ability to control the parking demand so as not to exceed the available supply. FEIR at 3-23 (Master Response: Adequacy of Parking Supply). First, the EIR suggests that the applicant could issue parking passes/gates and parking surcharges (FEIR at 3.2.4-332), but it provides no indication as to whether such measures would result in a sizeable reduction in parking demand. The EIR also states the applicant would prepare a "real time" information system that provides parking information that can be accessed via the internet and a smartphone app, which would display areas of available parking spaces. DEIR at 9-56. However, the EIR fails to describe how such a system would
work as there is no effective way to communicate to the general public when parking is full, especially given that visitors come and go, and may travel long distances to arrive at Squaw. Many visitors will initiate their trip in places like San Francisco, likely four hours before they actually need a parking space. Therefore, additional visitors would still attempt to drive to Squaw Valley, would circle the area looking for a parking spot, and only when satisfied that parking is full, would attempt to find an off-site lot or a different ski resort, all making VMT, traffic, air pollution, and water pollution worse.

There is simply no evidence that the Project would be able to manage its parking in a manner that avoids significant environmental impacts given its current less-than-stellar track record. As the Squaw Valley Fire Department explains, year after year, Squaw Valley ignores the parking and circulation issues that plague the entire region. FEIR at 3.2.7-4.5. The SVPSD confirms the Resort’s inability to handle the parking problems it creates. The District explains that the “Resort is unwilling to accept responsibility for towing illegally parked vehicles blocking roadway lanes and fire lanes on their private property.” See Exhibit 17 at 1. Courts allow a review of prior shortcomings in analyzing the adequacy of an EIR. The Supreme Court has stated that “[b]ecause an EIR cannot be meaningfully considered in a vacuum devoid of reality, a project proponent’s prior environmental record is properly a subject of close consideration in determining the sufficiency of the proponent’s promises in an EIR.” Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 420 (Laurel Heights I). The applicant’s past inability to manage its parking and vehicular flow raises significant red flags for handling parking from this massive increase in visitor use.

d. The EIR’s Analysis and Mitigation of the Projects Impacts on Public Transportation Remain Inadequate.

The DEIR includes numerous criteria for determining the significance of its transportation impacts. As regards transit, it states that the proposed Project would result in a significant impact if it would “create demand for public transit service above that which is provided, or planned.” DEIR at 9-30, 31. As we explained, the DEIR correctly acknowledges that impacts to public transportation would be significant but errs because it fails to: (1) effectively describe current transit operations; (2) identify the Project’s increase in transit demand; and (3) evaluate the effect that this increase in demand would have on local and regional transit service.

Unfortunately, the FEIR fails to rectify these deficiencies. Instead, rather than conduct the necessary impact analysis, the EIR asserts that the Project’s impacts
would be reduced to a less than significant level by making a fair share contribution to the local transit agency or creating a Community Services Area. However, several members of the public, including Sierra Watch, already explained that the DEIR lacked the evidentiary basis that making a financial contribution would effectively reduce the Project’s impacts. See e.g., FEIR at 3.2.4-109 (Comments 03-13, 14). Moreover, rather than include the required performance standards that might allow for this deferred analysis, the FEIR explains that the performance metrics have not yet been established. (See FEIR at 3.2.4-120 (Response 03-14, explaining that the performance metrics would be established by TART).

Finally, the FEIR tries the “trust us” approach. It asserts that an EIR traffic engineer conducted “one evaluation” of the Project’s fair share funding contribution and this evaluation indicated that it would be sufficient to provide two additional buses, one serving Truckee and one serving Tahoe City. FEIR at 3-27. Yet, the FEIR does not identify the traffic engineer and does not include any details about the evaluation. Thus, the EIR provides no explanation, let alone evidence, as to how the engineer determined two additional buses would be sufficient to resolve the Project’s impact on local and regional transit service. Consequently, the FEIR, like the DEIR, lacks the evidentiary basis to conclude that the Project’s impact on public transit would be less than significant. This is a fatal flaw requiring recirculation.

e. The EIR Fails to Adopt Feasible Mitigation Measures for the Project’s Significant Transportation Impacts.

The DEIR determined that the Project would result in numerous significant and unavoidable transportation impacts. See DEIR at 9-55 – 9-63. When an EIR makes a finding of significant environmental harm from a project, as it does here, CEQA requires the public agency carrying out the project to adopt all feasible mitigation measures to lessen that harm, or to adopt a feasible alternative that would do less environmental damage. Pub. Res. Code §§ 21002, 21081 & 21081.5. If the public agency rejects a mitigation measure or alternative as infeasible, the agency must make specific findings, supported by substantial evidence, that a mitigation measure or alternative is not feasible. Pub. Res. Code §§ 21081 & 21081.5.

In our comments on the DEIR we requested that the FEIR evaluate several mitigation measures included in the DEIR’s air quality chapter because those measures
would also reduce the Project’s transportation impacts. See FEIR at 3.2.4-389—391. Despite these seemingly reasonable and certainly feasible suggestions for mitigation, the FEIR ignores the vast majority of the suggested measures. Where a commenter suggests a “mitigation measure considerably different from others previously analyzed [that] would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it,” an EIR must be recirculated. CEQA Guidelines § 15088.5(a)(3).

Apparently recognizing the flaws in its approach to mitigation, the FEIR offers a few other strategies that would purportedly reduce private automobile use. FEIR at 3.2.4-500. Tellingly, the FEIR still uses such terms as “will be considered” and “where feasible” and therefore provides no assurance that the strategies would be effective to reduce the Project’s transportation impacts. Id. Indeed, the document does not even attempt to explain the circumstances as to when a strategy would be considered or the criteria for determining the strategies’ feasibility. In addition, it would appear that the applicant has ulterior motives for suggesting certain of these strategies. For example, the FEIR suggests that the Project could offer night skiing and encourage the use of the indoor water park and ice skating rink. Yet, these lackluster “trip reduction” strategies would appear to be more effective in increasing revenues rather than reducing traffic. Moreover, while encouraging visitors to participate in these activities after hours may reduce some vehicular trips during peak hours, the FEIR offers no indication as to how many trips might be removed from the roads.

Faced with the conclusion that traffic in Olympic Valley and beyond would be greatly exacerbated under the proposed Project, and with the finding that the mitigation proposed would not reduce impacts to insignificant levels, the County is obliged under CEQA to adopt additional measures that are enforceable or, alternatively, to provide substantial evidence that additional measures are infeasible. The FEIR does neither.

11 The DEIR explains that these trip reduction measures are not mandatory to reduce the Project’s air quality impacts to a less than significant level. Thus, not all measures would be implemented by the Project applicant.

12 The measures are clearly feasible as they were developed by the Placer County Air Pollution Control District, the California Air Pollution Control Officers Association, and the California Attorney General’s Office. See FEIR at 3.2.4-389—391.
4. The EIR’s Analysis of, and Mitigation for, the Project’s Air Quality Impacts Remain Inadequate.

In our prior letter, we explained that the DEIR glossed over the Project’s numerous air quality impacts. Rather than thoroughly evaluate, for example, the Project’s health risks, the FEIR simply defends the lackluster approach of the DEIR. Instead of providing detailed responses to comments that are supported with factual information, in many instances the FEIR provides unsupported, conclusory assertions or merely reiterates information already contained in the DEIR. This approach runs afoul of CEQA’s mandate that in responding to comments, an agency must provide a reasoned analysis supported by factual information. CEQA Guidelines § 15088(c). Where an agency fails to provide analysis and data in response to a comment regarding a specific environmental issue, the response is inadequate. See Santa Clarita Org. for Planning the Envt v. County of Los Angeles (2003) 106 Cal.App.4th 715, 722. Our comments remain valid. We believe it is particularly important to elaborate on one of the EIR’s key deficiencies – the failure to adequately analyze the Project’s health impacts.

As the DEIR explains, construction and operation of the Project would result in emissions of diesel particulate matter (“DPM”). DEIR 10-22, 10-23. DPM is a well-known health hazard and a known human carcinogen.13 Given the Project’s proximity to numerous residences and schools, we explained that the EIR should include a quantitative analysis of health effects to determine whether the Project would result in a significant health risk impact. See FEIR at 3.2.4-391 (Comment 09-135). Unfortunately, the FEIR does not include a health risk assessment (“HRA”) and suggests that such an analysis is unnecessary. Id. at 3.2.4-500 (Response 09-135—139). Specifically, as regards construction-related DPM, the FEIR states that the DEIR’s analysis took into account parameters such as the type and intensity of construction activity and equipment, the proximity to sensitive receptors, the duration in which TAC-emitting construction activities would occur, the transient occupancy characteristics of most sensitive receptors and the highly dispersive properties of DPM. Id. at 3.2.4-501 (Response 09-136) and DEIR at 10-23.

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The problem, however, is that neither the DEIR nor the FEIR provide the necessary evidentiary support for these assertions. First, the EIR does not include any information as to the intensity of construction equipment, let alone the amount of emissions that would be expected to be generated by each type of construction equipment. Construction would require operation of all-terrain vehicles, fork lifts, cranes, compressors, loaders, backhoes, excavators, dozers, scrapers, pavement compactors, welders, concrete pumps. DEIR at 3-38. If the EIR’s “analysis” did, in fact, take into account the type and intensity of construction equipment, the document must actually disclose how this accounting resulted in a determination that DPM emissions from construction equipment and activities would not harm public health. Meaningful analysis of impacts effectuates one of CEQA’s fundamental purposes: to “inform the public and responsible officials of the environmental consequences of their decisions before they are made.” Laurel Heights Improvement Assn. v. Regents of the University of California (1993) 6 Cal. 4th 1112, 1123 (Laurel Heights II). To accomplish this purpose, an EIR must contain facts and analysis, not just an agency’s bare conclusions. Citizens of Goleta Valley, 52 Cal. 3d at 568.

Second, the EIR explains that the decision was made to not include emissions from on-road diesel-powered haul trucks traveling to and from the construction areas suggesting that they “would not stay on the site for long durations.” DEIR at 10-22 (emphasis added). Here too, the EIR provides no evidentiary analysis for this assumption. It does not identify the nature of the haul trips, i.e., the number of haul trips expected on a daily basis, the length of the trips, or the duration that they would expected to be on-site.

The EIR’s third and fourth excuses for not conducting an HRA relate to the proximity and nature of residences. The EIR implies that the vast majority of residences are not close enough to be impacted by the Project’s construction emissions and many of these residents are “transient” and generally do not reside longer than a typical weekend or week-long stay.” DEIR at 10-23. These excuses are also unavailing. By the EIR’s own admission some single-family homes are within 50 feet from construction sites. Id. and DEIR at 11-22. Yet, the EIR provides no evidence, whatsoever, that 50 feet is a sufficient distance to not experience health effects from exposure to DPM. The EIR does explain that DPM is highly dispersive and can decrease by 70% at 500 feet (DEIR at 10-22), yet it never tells us the expected DPM concentrations at a distance of 50 or 75 feet.

Nor does the EIR provide any information to support its assumption that an HRA is unnecessary because residents are “transient.” Certainly, some of the residents in the area would be expected to occupy their homes on a full-time basis. Unless the EIR
provides documentation that there are no full-time residents in the area, it cannot simply assume that residents are transient and therefore would not experience sustained exposure to DPM emissions. Moreover, students and faculty at the schools in the Project vicinity, and employees of Squaw Valley, certainly cannot be considered transient occupants. Thus, because the EIR lacks evidentiary support, its conclusions that the Project would not be expected to have a significant health impact cannot be sustained.

Moreover, there is ample evidence in the EIR that the increase in DPM from the Project’s operations would be far greater than the EIR discloses and therefore could pose a significant health risk. The EIR acknowledges that the Project would include operational sources of DPM but downplays their potential to cause a significant health risk suggesting, for example, that certain equipment would only operate for brief periods of time and only a nominal amount of diesel-powered trucks would operate on any given day. DEIR at 10-23. What the EIR does not tell us though is that the Project would generate substantial particulate emissions—about 225 pounds per day—from the Project’s area, energy and mobile sources. DEIR Appendix H at pdf 104. This amount greatly exceeds the Placer County Air Pollution Control District (“PCAPCD”) emission threshold of significance of 82 pounds per day, which is the threshold the EIR appears to rely on when determining that the amount of Project emissions do not rise to the level that would warrant preparation of an HRA. See FEIR at 3.2.4-502 (Response at 09-139).

The sizable amount of DPM that would be generated by the Project on an on-going basis could certainly pose a risk to public health. Given the increase in DPM that would result from both construction-related and operational DPM emissions, the EIR should have prepared an HRA to evaluate the Project’s health risks. In addition, since there will be cumulative sources of DPM emissions in the Project vicinity—such as the simultaneous construction of the PlumpJack Squaw Valley Inn project—it is even more imperative that an HRA be prepared.

Finally, it is important to point out that the FEIR is particularly disingenuous when it suggests that the exemplar we provided—an HRA prepared for a residential project in San Jose—is merely “anecdotal” and “not relevant to the VSVSP DEIR.” FEIR at 3.2.4-501 (Response 09-137). That HRA is entirely relevant as it provides evidence that other agencies recognize the need to provide a quantitative evaluation of health risks for residential projects that are smaller than the VSVSP and where sensitive receptors are located much further away than they would be here. Furthermore, the FEIR states that Placer County is not privy to information regarding the City’s rationale for requiring the HRA and that Placer County has different guidance about how potential air quality impacts should be evaluated. Id. Here too, the EIR omits
important information. Placer County’s own air district (PCAPCD) specifically contemplates the need to prepare HRAs for new residential developments and has even published guidance for such HRAs. See CEQA Handbook, Appendix E-1 (Preparing a Health Risk Assessment for Land Use Projects), PCAPCD, attached as Exhibit 20. This Guidance identifies various screening tools that should be employed to determine if a significant risk may result from a project. Id. at E-2. Based on the results of the screening, the PCAPCD Guidance recommends that refined modeling should be conducted to quantify the potential health risks. Here the VSVSP EIR does not even conduct this initial level of screening.

Given the Project’s 25-year construction timeframe, the substantial DPM emissions from the Project’s construction and operation, and the fact that the construction of the PlumpJack Squaw Valley Inn project would occur at the same time as the VSVSP, the EIR’s failure to prepare an HRA constitutes a fatal flaw.

5. The FEIR Adds New Information Regarding Greenhouse Gas Emissions that Requires Recirculation, and also Exacerbates Deficiencies in the DEIR.

a. The FEIR’s New Analysis of GHG Emissions Must Be Recirculated.

Sierra Watch presented extensive comments on the DEIR’s greenhouse gas emissions analysis, noting that it improperly relied on business-as-usual (“BAU”, also referred to a no action taken or “NAT” in the DEIR) as a threshold, in violation of CEQA’s standards. The FEIR correctly notes that the California Supreme Court has recently issued a decision holding that an agency reviewing a development project may not rely on a standard statewide reduction formula from the BAU GHG emission scenario to claim less-than-significant project-related GHG emissions, unless it can provide substantial evidence of a link between the statewide reduction below BAU and the needed reductions for the project. See FEIR at 3-92–3-93 (discussing Center for Biological Diversity v. California Department of Fish and Wildlife (2015) 62 Cal.4th 204 ("CBD v. CDFW"). The FEIR also correctly notes that the DEIR failed to provide the required substantial evidence of such a link, and that local air quality agencies no longer recommend relying on the BAU standard. FEIR at 3-94. The CBD decision, which affirms Sierra Watch’s comments on the DEIR, thus invalidates much of the approach utilized in the DEIR for evaluating GHG emissions. FEIR at 3.2.4-398–3.2.4-400 (SMW comment letter).
We commend the County for recognizing the CBD decision and removing the BAU standard as a threshold of significance from the EIR. Unfortunately, the FEIR fails to recognize the import of this change. Rather, it incorrectly claims that “[t]he DEIR’s significance conclusions remain unchanged, including the way it used the PCAPD Tier II threshold of 21.7% below BAU.” FEIR at 3-94. This statement entirely ignores the analysis in the DEIR, as well as the alterations the FEIR makes to this analysis. The DEIR used the 21.7% below BAU as a threshold for 2020, and found that operational GHG impacts at that time would be less than significant. The FEIR deletes this language, and instead finds a significant GHG impact for 2020. See, e.g., FEIR at 3-103 (deleting “operational GHGs would not exceed the GHG efficiency based Tier II threshold recommended by PCAPCD for 2020”), 3-108 (deleting “the proposed project would achieve a reduction in greenhouse gas emissions of 24.7% by 2020, which would be a less than significant impact”). As the FEIR notes, recirculation is required when the FEIR reveals a significant impact that was not discussed in the DEIR. FEIR at 3-109. This is precisely what happened here.

The FEIR provides two main excuses for why the “DEIR’s significance conclusions remain unchanged” (FEIR at 3-94), both of which must fail. First, the FEIR claims that, even though the conclusions regarding impacts in 2020 have changed, the DEIR’s overall conclusion that the Project would have significant and unavoidable operational impacts at full-build out remains unchanged. FEIR at 3-94. This is irrelevant. Clearly, as revealed by the changes referenced above, the DEIR found operational GHG impacts in 2020 to be “less than significant” and the FEIR finds these impacts “significant.” As discussed, that is a change requiring recirculation. Further, even if the EIR lumps all operational GHG impacts into one impact category, CEQA requires recirculation where there has been a substantial increase in the severity of an impact. CEQA Guidelines § 15088.5(a)(2); FEIR at 3-109 (quoting same). Here, even if the overall conclusion of significance remains unchanged, because the DEIR claimed that operational impacts in 2020 would be less than significant, the FEIR’s revelation that those impacts are indeed significant results in an increase in severity of operational impacts requiring recirculation.

Next, the FEIR claims it is “doubtful that much of the project would be constructed prior to 2020” (FEIR at 3-108) and that the “2020-based target [is] moot at this point.” FEIR at 3.2.4-504. Yet, the FEIR goes on to admit that, with 2-year construction phases, the first phase could be completed by 2018 (FEIR at 3-95), and then logically the second phase could be completed by 2020. With potentially two phases of the Project to be completed by 2020, evaluation of environmental impacts in 2020 is not
The FEIR does not state what the first phases of construction would entail. However, the DEIR states that a maximum of 20% of the Project construction could occur in one year. DEIR at 3-33. Moreover, since at full buildout the Project would generate roughly 40,000 MT CO$_2$ per year (FEIR at 3-104–3-105), only about 3% of the Project would need to be built by 2020 to exceed the FEIR’s established threshold of 1,100 MT CO$_2$/year. This is entirely plausible and foreseeable. Indeed, under the FEIR’s new threshold of significance, the GHG threshold could be exceeded as early as 2017. Thus, unless the Project includes a condition that construction would not start until after 2020, the County cannot claim that GHG impacts in 2020 (or before that) are moot. It must recirculate the EIR to discuss this new impact.

In sum, in light of recent California Supreme Court precedent, the FEIR correctly alters a threshold of significance for the Project. The FEIR accordingly deletes a prior finding that GHG impacts in 2020 would be less than significant to state that those impacts are indeed significant and unavoidable. The County must now recirculate the EIR so that the public may adequately comment upon the Project’s significant GHG impacts under the FEIR’s new threshold of significance, and suggest ways to avoid or mitigate them (see discussion infra re GHG mitigation).

b. The FEIR Fails to Adequately Respond to Comments that the DEIR Contains Misleading Information Regarding GHG Emissions; Indeed, the FEIR Exacerbates the Problem.

Sierra Watch commented that the DEIR included misleading information by claiming the Project would not result in significant climate change impacts in 2020 because it reduces GHG emissions by 25% compared to NAT (or BAU). See FEIR at 3.2.4-397–3.2.4-399 (SMW comment letter). As discussed above, the California Supreme Court has validated this comment, stating that an agency cannot claim a single project is doing its part to reduce GHG emissions by meeting a generic statewide standard. This is because, as the FEIR recognizes, new projects are much more capable of achieving reductions than pre-existing uses and therefore will likely be required to implement more reductions to meet the State’s goals. While the FEIR does delete the NAT/BAU standard as a threshold of significance, specifically noting that it is not supported by substantial evidence as applied to this Project, it maintains the discussion of this standard “[t]o help characterize the nature of the impact.” FEIR at 3-104.

Indeed, the FEIR now claims the Project would produce a 29% reduction in GHG emissions (instead of 25%), and adds further discussions essentially claiming that
the Project is beneficial to the climate because it would supplant older, less efficient uses. See FEIR at 3-105, 3.2.4-507. The FEIR even goes so far as to claim the Project “is consistent with many of the principles used for infill development, a hallmark of SCSs [Sustainable Communities Strategies] and GHG reductions projects.”\(^{14}\) FEIR at 3-95. The EIR provides no evidence whatsoever to support the conclusion that the Project is beneficial to the climate. Indeed, the EIR ultimately concludes, as it must, that the Project would result in new emissions of roughly 40,000 MT CO\(_{2e}\) per year, about 40 times the County’s adopted threshold. Additional characterizations of the Project’s GHG impacts as actually beneficial to the climate conflicts with the significance conclusion in the EIR and can only serve to confuse and mislead the public. Friends of Oroville v. City of Oroville (2013) 219 Cal.App.4th 832, 844 (“speculative and contradictory conclusions” do not support analysis of GHG impacts). Even if it does not alter a threshold or an ultimate significance conclusion, an EIR may not provide misleading information. Communities For A Better Environment v. South Coast Air Quality Management Dist. (2010) 48 Cal.4th 310, 322; Galante Vineyards v. Monterey Peninsula Water Management Dist. (1997) 60 Cal.App.4th 1109, 1123.

Here, the Project involves construction of a 4-season resort community of vacation rooms/residences. The entire point of the Project is draw people out to a “world class” attraction. While there may be a portion of visitors that switch from other local resorts, the Project’s proponents make no bones about the fact that they are trying to get people who wouldn’t ordinarily visit the Tahoe area at all (including visitors from all over the world) to come to Squaw, and that they are especially trying to attract people that wouldn’t ordinarily leave their homes to go to a resort in the summer to get out and to go Squaw. While this may be a strategy to generate more profits, it has environmental consequences for the region and the climate. This is absolutely not the case where a current livable use is being retrofitted to be more energy efficient. It is new resort construction generating new GHG emissions. To claim otherwise is misleading and violates CEQA. While under a “business as usual” scenario the state may need to keep generating homes for people to live in as population grows, there is no similar need to produce luxury vacation residences and indoor water parks. The EIR must be recirculated to remove any claims that the Project will or may benefit the climate.

\(^{14}\) This claim is particularly disingenuous as, discussed infra, the Project is flatly inconsistent with the SCS for the area. See FEIR at 3.2.4-511.
c. **The FEIR Fails to Adequately Respond to Comments About the Project’s Consistency with Applicable Plans.**

Sierra Watch commented on the DEIR’s failure to analyze whether the Project complies with applicable plans and policies for GHG reduction, including AB 32, SACOG’s Metropolitan Transportation Plan/Sustainable Communities Strategy (“MTP/SCS”), Executive Order S-3-05, and Executive Order B-30-15. See FEIR at 3.2.4-399-3.2.4-402 (citing CEQA Guidelines § 15064.4(b)(3). Sierra Watch even provided a road map for how to conduct such analyses. The FEIR responds with a parade of excuses, citing agency discretion and that analysis would require speculation. However, for a long-term project such as this one, some amount of foresight is required, and as Sierra Watch pointed out, other agencies have been able to conduct the analysis.

While the EIR does contain some discussion of these plans, its analysis is incomplete at best and, as discussed above, misleading in some instances. For example, although EIR recognizes the Project would be inconsistent with SACOG’s MTP/SCS because it is in an area that is not slated for development under the Plan, it refuses to explore what this might mean in terms of setting the Region back in its ability to obtain climate objectives. Even worse, it misleads the public by elsewhere claiming that the Project is “consistent” with reduction goals identified in SCSs. FEIR at 3-95. Moreover, it fails to reveal that non-compliance with an MTP could mean the Project is ineligible to receive local, state, or federal transportation funding for road and transit improvements, which could affect the feasibility of Project components and mitigation measures.

Similarly, while the FEIR provides a generic description of statewide GHG reduction targets, it fails to provide the public with an understanding of how a new major regional source of GHG emissions from a resort development such as this could throw the State off the steep emissions reductions trajectory needed to help correct course to avoid some of the most catastrophic impacts from climate change. Sierra Watch’s letter on the DEIR provided conservative methods to conduct the necessary analyses (such as using 1990 emission levels as a target for 2020, as set forth in AB 32; comparing Project or vehicle emissions to the regional targets set for 2020 and 2035 by the MTP/SCS; and using SANDAG’s approach to analyzing consistency with 2050 reduction targets). The FEIR is correct that the GHG analysis for SANDAG’s RTP/SCS is currently pending before the state Supreme Court. However, the County is on notice that the requested analysis is feasible. Thus, if/when the Supreme Court affirms the Court of Appeal’s decision that an analysis of consistency with the state’s long-term GHG reduction targets is required for long-term projects, the County will have no defense for its lack of analysis. See FEIR at 3-93 (noting that Supreme Court in *CBD v. DFW* admonished that
"especially for long-term projects" an EIR "may in the near future need to consider the project’s effects on meeting longer-term emissions reduction targets.").

d. The FEIR Fails to Adequately Respond to Comments About the DEIR’s Underestimation of GHG Emissions.

Sierra Watch commented that the DEIR underestimated the Project’s increase in GHG emissions because it relied on an inaccurate estimation of the Project’s vehicular trips and vehicle miles traveled (“VMT”). FEIR at 3.2.4-402, 403 (comment no. 09-155). We explained, for example, that the DEIR used unreasonably short vehicular trip lengths in its calculation of VMT. Id. Rather than respond to this comment, the FEIR asserts that we provided no evidence to support our assertion. FEIR at 3.2.4-514 (response no. 09-155). The FEIR does however address this issue in its response to MRO Engineers’ report (at 3.2.4-334 response no. 08d-110); yet, this response confirms that the DEIR underestimated the Project’s vehicular trip lengths, and therefore VMT and GHG emissions.

Specifically, the FEIR explains that it identified the Project’s VMT by relying on a trip length of 30-miles (rather than the more accurate trip length of 92-miles) because the analysis is used solely to support the assessment of air quality impacts within Placer County and the local air basin. FEIR at 3.2.4-334 (response no. 08d-11). The FEIR goes on to explain that due to the size of the air basin, “it is not possible to obtain the substantially longer trip lengths” raised by MRO Engineers. Id. In other words, the EIR suggests that it need only identify the vehicular emissions that would be generated by vehicular trips within the local air basin. The FEIR errs in its approach. The Project’s vehicles do not stop generating criteria air pollutants or GHG emissions once they reach the County or air basin borders. The EIR all but admits that the average vehicular trip length associated with the Project is about 92-miles. Yet, because it relied on a trip length of 30-miles, the EIR appears to have accounted for only 1/3 of the Project’s vehicular-related VMT, criteria air pollutants, and GHG emissions.

The FEIR asserts that the DEIR likely overestimated regional and global CO2 vehicular emissions because they have already been quantified in the sustainable communities strategies (“SCSs”) prepared for the San Francisco and Sacramento regions. FEIR at 3.2.4-515 (response no. 09-156). Clearly, the EIR is reaching for straws. If these SCSs included the increase in GHG emissions from the Project’s vehicles, the EIR must provide some evidence of this fact. See Emmington v. Solano County (1987) 195 Cal. App. 3d 491, 502-03 (outside reports do not support environmental document where they are not adequately summarized and analyzed). CEQA also requires that an agency
relying on an EIR prepared for a different project or program must comply with specific procedures, including notifying the public about where a copy of the previous EIR can be obtained. CEQA § 21094(e); CEQA Guidelines §§ 15152 & 15153. The VSVSP EIR contains no such information about the San Francisco or Sacramento SCSs.

Finally, the FEIR fails to make any attempt to quantify the Project’s aircraft-related GHG emissions despite our request for this analysis. See FEIR at 3.2.4-403 (comment no 09-156). Here, the FEIR asserts that any attempt to identify the GHG emissions associated with air travel would “involve intense speculation.” Id. at 3.2.4-515 (response no. 09-156). The County may not evade its obligation to analyze the Project’s impacts simply because the task may be difficult. See Guidelines § 15144 (“Drafting an EIR … necessarily involves some degree of forecasting … [and] an agency must use its best efforts to find out and disclose all that it reasonably can”); Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 96 (“difficulties caused by evolving technologies and scientific protocols do not justify a lead agency’s failure to meet its responsibilities under CEQA …”). This is especially true in light of the fact that Squaw Valley advertises air travel as a way to access the resort. See, e.g., Exhibit 21 (Squaw Valley bulletin “Announcing New Nonstop Flights From Atlanta to Squaw Valley on Delta Air Lines”).

For the reasons explained above, the EIR fails to adequately account for the Project’s increase in GHG emissions from vehicular and air travel. These errors constitute a fatal flaw.

e. The EIR’s Mitigation of Significant GHG Impacts Remains Inadequate.

Sierra Watch commends the County for acting upon the group’s comments that mitigation is needed for GHG significant impacts in the early phases of development, and, accordingly, removing the condition that mitigation only be imposed “after December 31, 2020.” FEIR at 3-107. However, the EIR’s mitigation for GHG impacts remains woefully deficient for several reasons.

First, now that the FEIR has employed a different threshold of significance for GHGs, the mitigation provided is completely divorced from the impact identified. The FEIR states that significant GHG impacts result where the Project results in annual emissions greater than 1,100 MT CO2e/year. The logical conclusion is that this impact would be mitigated if Project emissions are reduced to below 1,100 MT CO2e/year. Yet, the mitigation provided in the EIR is entirely framed around consistency with GHG
reduction targets adopted by the State that are based on a substantial linkage between the Project and the statewide reduction goals. FEIR at 3-107. But the FEIR admits elsewhere that no such statewide reduction targets that are linked to individual projects currently exist, and they may never exist. See, e.g., FEIR at 3-103 ("There are no current mechanisms available to determine the level of GHG-efficiency needed on a single project in order to determine if it fits within the State’s Scoping Plan targets."). Nor does the EIR offer a contingency plan if there are no such statewide goals in place. Thus, the mitigation is not only unrelated to the identified impact, it is illusory.

This mitigation result is unacceptable under CEQA, especially where the County has at its fingertips a host of potentially feasible mitigation measures to reduce GHG emissions. Rather than defer mitigation measures and tie them to an uncertain statewide reduction plan, the EIR must require feasible mitigation now for the Project’s identified significant GHG impacts. The EIR claims that “the cost and feasibility of certain policies that would be mandated as mitigation are not known.” FEIR at 3-109. But it is the EIR’s job to assess the feasibility of mitigation measures. Such measures are not unknown. Indeed, they are spelled out very specifically in the Appendix G to the FEIR and in Sierra Watch’s and others’ comment letters. The FEIR offers no valid rationale as to why the measures can’t be evaluated now and required as conditions of approval for the Project, and why offsets cannot be required if any of the identified measures prove infeasible or incapable of reducing the Project’s significant GHG impacts.

As explained in our comment letter on the DEIR, CEQA only allows deferral of mitigation where (1) practical considerations preclude development of the measures at the time of project approval, (2) the EIR contains criteria to govern the future actions implementing the mitigation, and (3) the agency has assurances that the future mitigation will be both “feasible and efficacious.” Californians for Alternatives to Toxics v. Dept. of Food & Agric. (2005) 136 Cal.App.4th 1, 17. These criteria are not met here.

In its response to comments, the FEIR claims that it evaluates measures “similar” to those proposed by Sierra Watch. FEIR at 3.2.4-515–3.2.4-515 (response to comments nos. 09-158, 09-159). However, because the FEIR still lists the GHG impact as significant and unavoidable after mitigation, it must consider all feasible mitigation that might reduce the impact. There are many measures proposed by Sierra Watch and others that the EIR has yet to consider. These include, for example, using zero emission vehicles for construction and people movement, reducing the use of pavement and impermeable surfaces, and providing educational resources on energy and vehicle uses.
Specifically, as discussed above, there is no practical impediment to developing mitigation as specific measures have already been identified. Further, the criteria provided are vague and illusory as no eligible statewide reduction goals have been identified that can be translated to sufficient Project-level reductions. Thus, there are certainly no assurances that the identified mitigation will be feasible or efficacious since the identified mitigation may never come to fruition.

In short, the EIR must evaluate any/all potentially feasible mitigation measures or alternatives to reduce the significant GHG emissions identified. Further, if it decides to approve the proposed Project, it must adopt any/all feasible measures as an enforceable part of the Project approval.

6. The EIR’s Analysis of, and Mitigation for, the Project’s Noise Impacts Remain Inadequate.

Given the location of the Project—in a mountain environment where peace and quiet are valued and expected, noise is a particularly important issue. Unfortunately, as we explained in our comments on the DEIR, the document failed to adequately analyze or mitigate the noise impacts that would result from: (1) construction-related equipment and activities; (2) the Project’s stationary sources of noise; and (3) the traffic that would be generated by the Project. See FEIR at 3.2.4-407 (Comment no 09-166). Rather than substantively address these comments, the FEIR inappropriately asserts that the level of detail in the DEIR is appropriate for a programmatic EIR. See FEIR at 3.2.4-517 (response no 09-166) and Master Response: Noise, FEIR at 3-40. This excuse is unavailing.

As we explained in Part I.A(1) of this letter, the label attached to an EIR is unimportant. Program EIRs are not exempt from the requirement that agencies must analyze a project’s impacts with reasonable detail when the agency “has ‘sufficient reliable data to permit preparation of a meaningful and accurate report on the impact’ of the factor in question.” Los Angeles Unified School Dist. v. City of Los Angeles (1997) 58 Cal.App.4th 1019, 1238 (citation omitted); Al Larson, 18 Cal.App.4th 729, 743. CEQA also requires that environmental impacts be mitigated at the earliest possible date. As we explained in our prior letter, and as we reiterate below, the County has sufficient data to provide a thorough analysis of, and mitigation for, the Project’s noise impacts. We highlight certain of the most egregious violations below.
a. The EIR’s Analysis of Noise Impacts is Hamstrung by Its Failure to Consider All of the Impacted Receptor Locations.

Our prior letter commented that although the Project would impact countless sensitive receptors, the DEIR did not provide any specific information about these receptors. FEIR at 3.2.4-408 (Comment 09-167). We explained that if the DEIR under-represented the number and type of potentially affected receptor locations, it also necessarily underestimated the Project’s noise impacts on these receptors. Id. Rather than actually identify the location of each sensitive receptor that could potentially be subjected to elevated noise levels, the FEIR simply directs the reader back to the same DEIR exhibits that we had found to be deficient. For example, while the FEIR states that sensitive receptors are identified in Exhibit 11-1, this is not the case. Exhibits 11-1 and 11-2 identify locations where noise measurements were purportedly conducted. Neither of these exhibits show the locations of sensitive receptors, e.g., religious facilities, residences, hotels and the schools within the Project area. The FEIR also directs the reader to DEIR pages 11-5 and 11-6, explaining that these pages “define and describe the sensitive land uses.” FEIR at 3.2.4-518 (Response 09-167). But these pages do no such thing. Instead, they casually assert that there are “scattered residences” located around the Project site, such as the residences on Indian Trail Court. Worse yet, DEIR page 11-6 directs the reader to Exhibit 11-1, suggesting that this exhibit identifies the specific locations of sensitive receptors. Consequently, the FEIR fails as an informational document as it does not include the information needed for members of the public to determine how noise from the Project would affect them.

b. The EIR Fails to Effectively Mitigate the Project’s Significant Construction-Related Noise Impacts.

We criticized the DEIR for its failure to provide any indication, let alone evidence, that the mitigation measures would effectively reduce the Project’s construction-related noise impacts. The FEIR concedes that the EIR does not quantify the expected effectiveness of its measures suggesting that it would be too difficult, e.g., construction activities would occur at different locations, noise will move as equipment moves throughout the site, etc. FEIR at 3.2.4-519 (Response 09-172). CEQA does not permit an agency to evade its obligation to mitigate environmental impacts because the Project is too large or complicated. Following this convoluted reasoning, the greater the environmental harm contemplated by an agency, the lesser the obligation of conducting environmental review. As explained by the Court in Laurel Heights I, 47 Cal.3d at 399,
“[w]e find no authority that exempts an agency from complying with the law, environmental or otherwise, merely because the agency’s task may be difficult.”

It is clearly possible to identify effective mitigation measures for the Project’s noise impacts. The FEIR includes a new component in Mitigation Measure 11-1a that calls for the construction of the East Parcel, to be “designed to avoid intrusive noise” at the Squaw Valley Academy. FEIR at 3-41. This measure also includes performance standards which state that the Project shall avoid noise levels exceeding 45 dBA Leq/65Lmax during times when activities take place at the school. Id. The FEIR identifies the specific methods that the applicant shall undertake to achieve these standards, such as replacing windows, increasing insulation as needed, etc. Id. While this measure pertains only to the East Parcel’s impacts on the Squaw Valley Academy, the EIR could have developed similar measures to effectively reduce the Project’s impacts on residential receptors in the Project area. Of course, in order for the County to determine which receptors would require mitigation, the EIR must first identify the receptors that would be impacted.

c. The EIR Fails to Identify Effective Mitigation for the Project’s Significant Vibration Impacts.

We commented that the EIR lacks the necessary evidence to support its conclusion that the Project’s vibration impacts would be mitigated to a less than significant level. The FEIR suggests that its mitigation measure is adequate as it includes a performance standard. Id. But this is not the case. According to the EIR, the applicant is allowed to breach its 300 foot setback requirement if a ground vibration study indicates the buildings would not be exposed to ground vibration levels in excess of 80 VdB and ground vibration measurements performed during construction confirm that the buildings are not being exposed to levels in excess of 80 VdB. Id. This is not an acceptable performance standard as there is no explanation as to the specific approach the applicant would take to achieve this vibration limit. See CEQA Guidelines § 15126.4; see also Sacramento Old City Assn., 229 Cal.App.3d at 1034.

The EIR defers altogether this important step as it calls for the eventual preparation of a vibration control plan that describes the “various measures, setback distances, precautions, monitoring programs, and alternative methods to traditional pile driving activities with the potential to result in structural damage or excessive noise.” DEIR at 11-23. These are the precise measures that must be identified now if the EIR intends to rely on its performance standard. Moreover, the EIR fails to provide any indication that the mitigation measure would be fully enforceable through permit
conditions, agreements, or other legally-binding instruments as CEQA requires. Because the EIR’s mitigation measures do not meet CEQA’s clear standards, the EIR is legally deficient and our comments on the DEIR remain valid.

d. The EIR Fails to Adequate Analyze or Mitigate the Project’s Operational Noise Impacts.

We commented that notwithstanding the numerous sources of noise that the Project would generate on an on-going basis, the DEIR provided no specific analysis of how this noise would affect nearby sensitive receptors. FEIR at 3.2.4-412 (Comment 09-176). The FEIR excuses itself from this analysis suggesting that we did not explain why the analysis of stationary noise was insufficient.

As an initial matter, a legally adequate EIR “must contain sufficient detail to help ensure the integrity of the process of decision making by precluding stubborn problems or serous criticism from being swept under the rug.” Kings County Farm Bureau, 221 Cal.App.3d at 733; CEQA Guidelines § 15151.) The EIR fails to provide sufficient detail. More specifically, the EIR’s analysis is insufficient for the following reasons. First, the DEIR did not identify the specific locations of the Project’s myriad stationary noise sources despite the fact that most of these sources would generate extremely loud noise.16 Second, the DEIR did not identify the specific locations of sensitive receptors (i.e., those that would be impacted!) in the Project area. Third, the DEIR did not identify the existing ambient noise levels at sensitive receptor locations. Fourth, the DEIR did not identify the predicted noise levels that these receptors would experience on an on-going basis each and every day. Fifth, the DEIR never described the effect that this increased noise would have on receptors, i.e., how would it affect sleep, speech, stress, and annoyance levels.17

16 The DEIR explains, for example, that sources such as loading dock and delivery activities could generate noise levels up to 82 dB Leq to 86 dB Lmax at a distance of 50 feet. DEIR at 11-26. The Project would also generate excessive noise from its mechanical HVAC equipment, electrical generators, loading dock and delivery activities, parking lots, and outdoor activities such as outdoor concerts. Id. at 11-24 -- 11-27.

17 It is important to acknowledge here that the EIR explicitly recognizes the need to evaluate the actual effect that noise has on individuals when it acknowledges that “noise standards are intended to protect people from unwanted disturbances and noise levels
We also identified the numerous flaws in the DEIR’s approach to mitigation explaining that the DEIR lacked the evidentiary basis to conclude that the measures would effectively reduce impacts to less than significant levels. See FEIR at 3.2.4-412, 413 (Comments 09-177 – 09-180). Here too, the FEIR states that it need do no more because it is a programmatic EIR and because it includes performance standards. FEIR at 3.2.4-520 (Response 09-179, 180). Both excuses are unavailing. As discussed previously, the programmatic nature of an EIR does not excuse an agency from evaluating the Project’s impacts or identifying feasible and enforceable mitigation.

As regards the EIR’s so-called performance standards, the EIR does not identify the specific approach the applicant would take to ensure that standards are met. Similar to the approach taken to “mitigate” the Project’s vibration impacts, the EIR states that the applicant would ultimately prepare a “specialized noise study” to evaluate Project design and to ensure that the Project complies with the County’s noise standards. DEIR at 11-28. This noise study must be prepared now—rather than after Project approval—as it may determine that it is not possible to operate the Project within the noise levels set forth in the EIR’s “performance standards.”

Furthermore, the EIR’s “performance standards” pertain only to noise associated with loading docks and parking lots. See DEIR at 11-28. There are no performance standards for the Project’s myriad other sources of noise such as the HVAC units or noise from the Project’s outdoor activities. Consequently, the EIR lacks the necessary evidence that the Project’s increase in noise from on-going operations would be reduced to a less-than-significant level. Our comments on the DEIR remain valid.

e. The EIR Fails to Correct the Deficiencies in the DEIR Relating to the Project’s Traffic Noise.

Our letter identified numerous deficiencies in the DEIR’s analysis of traffic-related noise impacts. The FEIR fails to adequately response to these comments or to resolve the deficiencies in the EIR’s analysis. Rather than reiterate each deficiency, we focus on the most egregious flaws below.

First, we explained that the DEIR underestimated traffic noise because the EIR underestimated the amount of traffic that would be generated by the Project. FEIR at 3.2.4-414 (Comment 09-181). The FEIR fails to address this comment.

during times where increased noise levels can disrupt sleep or other activities where quiet is essential.” FEIR at 3.2.4-520 (Response no. 09-182).

SHUTE MIHALY
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Second, we explained that the DEIR erred when it determined that traffic noise during the summer would be unlikely to affect residences suggesting that they likely have dual pane windows and insulation that effectively attenuates noise to below the 45 dBA Ldn noise standard for interior spaces. See FEIR at 3.2.4-414 (Comment 09-183). The FEIR now acknowledges that since not all residents choose to keep their windows closed during the summer and because not all residences have insulation or dual pane windows, noise from the Project’s traffic could exceed standards. FEIR at 3-45. Notwithstanding this acknowledgement, the FEIR does its best to suggest this impact is not significant. See Id. at 3-45, stating: “this is not considered a substantial occurrence because it happens infrequently and for a short time on those few days it would occur.” The EIR fails to provide any support for this assertion. Nor could it since the Project’s increase in traffic would occur throughout the summer, when residents are likely to have their windows open.

The FEIR goes on to suggest that it has revised and clarified its mitigation (the EIR now proposes the installation of rubberized hot mix asphalt or an equivalent surface treatment along Squaw Valley Road), which would purportedly “eliminate” the Project’s increase in traffic-related noise. Id. and FEIR at 3-47, 48. Once again, the EIR fails to provide the necessary evidentiary support that this mitigation would reduce the Project’s impacts to a less than significant level, let alone eliminate the impact altogether. Similar to other mitigation measures, the FEIR asserts that the Project would be designed to reduce traffic noise levels by 4-6 dB. Id. But the document does not identify how the rubberized asphalt (or equivalent treatment) would ensure this level of noise reduction, especially because the EIR admits that actual noise reduction levels would vary depending on travel speeds, meteorological conditions, and pavement quality. Id. Given this vague and ambiguous language, the EIR provides no basis to judge the effectiveness of this measure. Rather it is a “mere expression[] of hope” that the County will be able to devise a way around the problem of the Project’s excessive traffic noise. Lincoln Place Tenants Assn. v. City of Los Angeles (2005) 130 Cal.App.4th 1491, 1508. CEQA requires more than that to mitigate significant impacts. Equally important, an EIR that identifies new significant impacts requires recirculation.

The addition of this new mitigation measure also compounds the EIR’s CEQA violations because the installation of new pavement along Squaw Valley Road would result in new significant impacts that have not been analyzed. CEQA Guidelines § 15126.4(a)(1)(D) (when “a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed”). As the EIR clearly admits, the Project would
already impact traffic conditions along Squaw Valley Road. Repaving this roadway would substantially worsen traffic conditions as it would require segments of the roadway to shutdown altogether. Repaving would necessarily have to occur during the non-snowy season when the area is also at risk of wildfires. Thus this mitigation measure would also interfere with emergency access and wildfire evacuation. Repaving would also result in increased criteria and toxic air pollutants from the trucks carrying the asphalt and from traffic from the application of the asphalt itself. Asphalt paving can also lead to odors in the community (Id.) and has the potential to degrade water quality if appropriate best management practices are not implemented. The EIR’s failure to analyze the environmental impacts that would result from this mitigation measure is another fatal flaw.

7. The EIR’s Analysis of, and Mitigation for, the Project’s Impacts on Visual Resources Impacts Remain Inadequate.

This firm’s letter on the DEIR included extensive comments documenting the failure of the EIR to adequately identify, analyze or mitigate the Project’s impacts on visual resources. These comments remain relevant, and have yet to be adequately addressed by the County. One of the EIR’s most deficient analyses pertains to the Project’s impact on dark skies. We discuss this issue below.

a. The EIR’s Analysis of Light and Glare Remains Legally Deficient.

The FEIR’s treatment of the Project’s light and glare impacts remains particularly deficient. In our comments on the DEIR, we explained that, given the paramount importance of maintaining dark skies in the Sierras, any project that results in a marked increase in light pollution warrants extensive environmental analysis. The FEIR’s response to this far-reaching concern has not been to correct the DEIR’s flaws.

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but, rather, to make excuses for them. For example, we explained that in order to accurately evaluate light and glare impacts, one must first establish a nighttime light baseline assessing the quality of dark skies. It is certainly possible to monitor the quality of the night sky and light pollution. As the attached article authored by the International Astronomical Union explains, cameras that are able to save images in an unaltered raw format can be calibrated to get measurements of the luminance of the sky in a physical scale. Then the photo of the night sky can be converted to false color impacts, which represents the distribution of sky brightness. See Using a Digital SLR Camera to Monitor Light Pollution, Dark Skies Awareness, International Astronomical Union, attached as Exhibit 22.

Once a proper baseline is established, the EIR must then evaluate how the Project’s lighting sources would impact dark skies. As we explained previously, the analysis must take into account three aspects of lighting: (1) shielding of fixtures; (2) spectrum of light sources; and (3) amount of light. FEIR at 3.2.4-419, 20 (Comments 09-191–09-195). We provided detailed methodological guidance for evaluating light and glare impacts prepared by the Dark-Sky Association, a recognized authority on light pollution and the leading organization combating light pollution worldwide. Yet, the FEIR offers no credible justification for refusing to conduct this analysis. Instead, it asserts that there are no state or local regulations that require application of this methodology and “rather than rely on the Dark Skies criteria to make a determination about whether or not the project would have a significant effect, the approach taken in the DEIR conservatively assumes that adding light sources would be a significant and unavoidable change to current condition.” FEIR at 3-35, 3-36.

While the EIR is undoubtedly correct to conclude that this impact is significant, a conclusion of significance cannot take the place of description and analysis of the impact. See Stanislaus Natural Heritage Project, 48 Cal.App.4th 182 (invalidating EIR that had failed to adequately analyze water supply impacts but found them to be significant and unavoidable). This superficial approach also violates another fundamental tenet of CEQA. An EIR must accurately and effectively gauge the severity and extent of the Project’s effect on night skies. In this regard, the County has a duty to “painstakingly ferret out” the Project’s impacts. Envt’l Planning and Information Council of W. El Dorado County v. County of El Dorado (1982) 131 Cal.App.3d 350, 357. It is true that the County need not rely on the specific methodology outlined by the Dark-Sky Association, but it cannot simply skip the analysis altogether.

The EIR is loaded with repetitive statements concerning the generalized impact of the Project: “the project would [...] potentially increase skyglow conditions in
the area;” “development would have exterior lighting and indoor lighting that would cause light spill to the outside;” “nighttime views from Resort at Squaw Creek would include additional lighting;” and “[t]he project would remove some existing light sources and add new lighting: the result would be a net increase in the light emitted from the property.” DEIR at 8-59; FEIR at 3.2.4-524 (Response 09-195). These vague and cursory statements provide no basis for determining the extent of impact on the physical environment, and they certainly do not demonstrate that the County has used its “best effort to find out and disclose all that it reasonably can.” Citizens to Preserve the Ojai v. Ventura (1986) 176 Cal.App.3d 421, 431; see also Laurel Heights I, 47 Cal.3d at 399 (“We find no authority that exempts an agency from complying with the law, environmental or otherwise, merely because the agency’s task may be difficult.”). Indeed, it is impossible to glean what the impacts would be from the information provided.

A comprehensive analysis of the Project’s light pollution is all the more important given the site’s extraordinary setting. The Project’s light and glare would extend beyond the Village of Squaw Valley; it would affect the greater Tahoe Basin. We explained that a regional analysis is particularly important because the Project would undoubtedly affect the federally-designated Granite Chief Wilderness Area. See FEIR at 3.2.4-420 (SMW letter at page 84, Comment 09-195). The FEIR inexplicably side-steps the need to analyze impacts to the Wilderness Area, initially stating that trail users would have limited views of the Valley. FEIR at 3.2.4-524 (Response 09-195). The document then reverses itself and concedes that lighting and associated sky glow may be perceived as a significant change from locations such as the Granite Chief Wilderness. Id. (emphasis added). Since the FEIR now acknowledges that impacts to the Wilderness Area would be significant, the EIR must be recirculated. The recirculated EIR must provide a full analysis of, and mitigation for, impacts to the Wilderness Area, especially because the FEIR never actually describes how the views of the night sky would change for visitors at this location.

b. Mitigation for the Project’s Light and Glare Impacts Remains Inadequate.

The EIR also violates CEQA because its proposed mitigation measures are vague, ineffective and unenforceable. The initial measure (MM 8-5a) calls for the installation of landscaping to screen night lighting for nearby residents. DEIR at 8-59. The DEIR offers no indication that landscaping would shield residents from light, let alone reduce the Project’s contribution to sky glow. Moreover, given that the Project includes massive buildings (e.g., residential towers upwards of 100-feet tall and a 108-
foot tall aquatic center), most trees, and especially immature trees, would not be tall enough to screen light from these massive structures.

The second measure (MM8-5c) calls for designing the Project’s parking structures to block direct illumination of nearby residents. DEIR at 8-60. This measure may potentially shield neighbors from some lighting, but it does nothing to address the lighting from the other Project components such as street lights, pedestrian paths, building corridors, landscape lighting, service areas, headlights, or the lighting of the village commercial core areas.

The final measure (MM 8-5b) calls for the applicant to comply with the VSVSP design guidelines and to develop a detailed lighting plan. DEIR at 8-59. As an initial matter, a mitigation measure calling for the applicant to comply with the design guidelines developed by the applicant himself is meaningless. The design guidelines are the Project. Thus, this measure calls for the applicant to mitigate the Project’s light pollution impacts by implementing the Project. An applicant’s promise to implement his own project would do nothing to reduce the Project’s severe light and glare impacts.

As regards the promise to prepared a detailed lighting plan, CEQA allows a lead agency to defer mitigation only when: (1) an EIR contains criteria, or performance standards, to govern future actions implementing the mitigation; (2) practical considerations preclude development of the measures at the time of initial project approval; and (3) the agency has assurances that the future mitigation will be both “feasible and efficacious.” Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 94-95 (“CBE”); San Joaquin Raptor Rescue Center, 149 Cal.App.4th at 669-71; CEQA Guidelines § 15126.4(a)(1)(B). Here, the EIR meets none of these requirements. The EIR does not identify any performance standards against which the mitigation’s actual implementation can be measured. Nor does the document explain why the detailed lighting plan could not have been prepared now, prior to Project approval. It also does not provide any evidentiary support as to how the plan would be capable of meaningfully addressing the Project’s light pollution impacts.

Largely because the existing measures were so deficient, we identified specific measures such as requiring that light sources be shielded, requiring the use of yellow light sources, and placing a cap, or at least a reasonable limitation, on the total

19 The design guidelines are included in the Village at Squaw Valley Specific Plan, and the Specific Plan is the Project.
lighting for the Project. We provided evidentiary support of the effectiveness of these measures to reduce light, glare, and skyglow. See FEIR at 3.2.4-421 (Comments 09-196—09-199). The FEIR largely dismisses these comments, and instead reiterates the claims made in the DEIR without supporting facts or substantive analysis. Our comments on the DEIR remain valid.

8. **The FEIR Fails to Adequately Respond to Comments About the Project’s Impacts to Historic Resources.**

In its prior comments, Sierra Watch noted that the DEIR failed to adequately analyze the Project’s impacts to historic and cultural resources. FEIR at 3.2.4-422–3.2.4-426. However, the FEIR fails to adequately respond to those comments. Several of the most egregious examples are discussed below.

First, while the FEIR acknowledges, as it must, that Squaw Valley has been designated as a State historic landmark (Pioneer Ski Area of America, site No. 724), it refuses to analyze whether the Project would destroy or alter the area in such a way as to impact this designation. Rather, the FEIR claims that analysis of destruction of two buildings used in the Olympics on the Project site is an adequate substitution for this analysis. FEIR at 3.2.4-525 (response to comments No. 09-200). The FEIR further claims that because the Office of Historic Preservation will review the designation at some point, that the landmark need not be evaluated. *Id.* The FEIR is wrong on both counts.

The County may not unilaterally alter the State historic landmark designation. Moreover, the FEIR provides no evidence whatsoever that the two Olympic buildings on site provide anywhere close to a proxy for the more than a century and a half of history associated with organized alpine skiing in the Project area. The initial landmark designation indicates that the site is eligible for listing in the California Register of Historical Resources, for example because it is “associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage.” See CEQA Guidelines § 15064.5(a)(1) & (3)(A). Eligibility for listing on the California Register is all that is required. Therefore, that at some point the Office of Historic preservation may review the designation so that it may be *automatically listed* in the California Register does not change the fact that the Office of Historic Preservation initially determined its eligibility by designating the site as an official landmark. *See* California State Parks Office of Historic Preservation, California Historical Landmarks by County ([http://ohp.parks.ca.gov/?page_id=21387](http://ohp.parks.ca.gov/?page_id=21387)), attached hereto as Exhibit 23.
Second, instead of providing substantial evidence that other historic buildings on the site are not significant, the FEIR simply responds that such information is “confidential.” FEIR at 3.2.4-526 (response to comment 09-201). Yet, the FEIR fails to explain why the County’s assessment of the integrity of these buildings would be confidential. The DEIR identifies the buildings and makes claims about them. The FEIR cannot hide behind confidentiality rules to escape providing substantial evidence for its conclusions.

Third, the FEIR entirely fails to address, much less respond to, Sierra Watch’s comment that the Placer County General Plan prohibits the damaging or destruction of “important historical, archaeological, paleontological, and cultural sites and their contributing environment.” FEIR at 3.2.4-424–3.2.4-425 (citing Policy 5.D.6). The County must revise and recirculate the EIR to analyze the Project’s inconsistency with this provision.

Finally, the FEIR does not fix the lack of substantial evidence for the conclusion that potential impacts to archaeological resources will be mitigated to a less than significant level. The FEIR only repeats the unsubstantiated conclusion in the DEIR. While the EIR elsewhere admits that mitigation to a less than significant level can only occur if the resource is avoided, mitigation measure 7-3(c) recognizes that avoidance may not be possible. DEIR at 7-22. Further, none of the mitigation provides for “contingency funding and a [sufficient] time allotment” to allow for avoidance or appropriate mitigation, as required by CEQA Guidelines section 15064.5. FEIR at 3.2.4-526 (quoting same).

9. The FEIR Fails to Correct the Deficiencies in the DEIR’s Public Safety Analysis and Mitigation.

In our comments on the DEIR, we informed the County of the inadequacies of the DEIR’s analysis and mitigation of impacts to public safety from the Project, including risks from wildfire, earthquakes, avalanches, and propane storage. See FEIR at 3.2.4-426–3.2.4-431. As discussed below, the FEIR fares no better.

With respect to wildfire risk, the FEIR combines its response on this with its response regarding emergency access. Therefore, we address this issue above (supra, Part I.B(3)(b)) with our comments on emergency access.
a. The EIR’s Analysis and Mitigation of Seismic and Avalanche Hazards Remain Inadequate.

With regards to earthquake and avalanche risks, our prior comments noted that the DEIR improperly deferred mitigation by stating the impacts would be addressed in later studies and plans. FEIR at 3.2.4-426. The FEIR claims this is approach is justifiable due to the “programmatic” nature of the document. FEIR at 3.2.4-529 (response to comment no. 09-207). As discussed, this does not excuse preparation of analysis that is appropriate for the proposed development plan.

For example, the EIR defers preparation of a final fault analysis, which would include a “written text addressing existing conditions, evidence suggesting recent fault activity, all appropriate calculations, logs, cross sections, testing, and test results, fault trace location map(s) overlaid with proposed on- and off-site improvements, and site maps showing applicable building setbacks, or possible setbacks, based on various scenarios resulting from the final investigation.” FEIR at 3.2.4-528. There is no reason the EIR could not conduct this analysis and propose appropriate mitigation (such as setbacks) based on the current proposed site plan for the Project. If the Project needs to be altered based on the fault analysis, the public and decision-makers should be apprised of this situation now, before a final vote on the Project application, which includes entitlements for a given level of development.

The FEIR claims a report has already been prepared regarding avalanche hazards that contains performance standards, but fails to provide that report. This information must be included in the EIR, especially in light of the FEIR’s acknowledgement that if mitigation measures are not properly implemented, “project development could increase the number of persons at significant risk in the event of an avalanche.” FEIR at 3.2.4-529 (response to comment no. 09-207).

The FEIR also fails to heed concerns that the EIR’s determination that seismic and avalanche hazards will be reduced to a less than significant impact with mitigation is not supported by substantial evidence due to the nature of the impact. The FEIR responds that it is up to Placer County to determine what is an acceptable level of risk, and that there are risks “from walking on a sidewalk to riding a bicycle or driving to the grocery store.” FEIR at 3.2.4-530 (response to comment no. 09-208). While Placer County has some discretion in setting thresholds of significance, it abuses that discretion when it compares siting a development on a known fault line and in a known avalanche hazard area to quotidian activities such as walking on a sidewalk. This is especially true when the development would exacerbate such risks by inducing growth in the area,
including in high avalanche zones (such as in White Wolf). Given that mitigation is not known at this point, much less proven, to reduce seismic and avalanche hazards, the EIR’s conclusion that such hazards result in a less than significant impact is unsupportable.

b. The FEIR Provides Only a Conclusory Response Regarding the Impacts from Propane Storage on the Project Site.

Even though the Project would involve on-site storage of 165,000 gallons of propane, stored in “propane farms,” the EIR boldly asserts that impacts from such storage would be less than significant because all safety regulations would be followed. See FEIR at 3.2.4-532 (response to comment no. 09-217). However, as explained in our prior comments, accidents happen, and the EIR must analyze and protect against such incidents. For example, what happens to water quality, soils, and safety if the underground tanks leak? What happens in the event of an earthquake, which the EIR admits is very possible in this vicinity? How will emergency access routes/response times be impacted in the event of an emergency? See supra Part I.B(3)(b). The EIR’s failure to examine these issues results in a prejudicial abuse of discretion.

The EIR’s deficiency is further exacerbated by the fact that the FEIR alters the propane storage plan, adding a new storage location at the entrance to the resort (Lot 28). FEIR at 2-5. Adding this third location only increases the odds that Project visitors could be impacted by hazards associated with the propane storage. Lot 28 is particularly ill-suited for propane storage due to the increased risk of explosion to guests, residents, and emergency responders this location creates in the event of a fire. Lot 28 is a triangular lot bordered by Squaw Valley Rd, Far East Road, and Squaw Creek. Directly across the Creek is Lot 11 which would house the largest of the proposed parking structures. Village at Squaw Valley Specific Plan (April 2016) at B-21. The result is that the Project now proposes to locate tens of thousands of gallons of explosively flammable gas alongside a bottleneck in the only evacuation route out of the valley in the event of a wildland fire, and adjacent to the largest, and most conveniently located, of the parking areas where the FEIR suggests people could “shelter in place.” FEIR at 3-23. As with the prior locations, the EIR entirely fails to analyze the impacts at the new storage location.

The new location would clearly have additional impacts from that originally proposed, as in the original Project proposal Lot 28 was proposed to be zoned forest recreation and open space, where uses including the siting of explosive gases that
would create threats to evacuation routes and shelters would be prohibited. See FEIR at 2-6. Rather than analyzing this inconsistency and increased risk to public safety in a recirculated document, as required, the FEIR attempts to slap an overlay zone on the parcel and call it a day. Id.; CEQA Guidelines § 15088.5(a) (requiring recirculation when there is new information regarding a new or increased significant environmental effect). CEQA does not countenance such a conclusory result.

The County must revise and recirculate the DEIR to include a full analysis and mitigation of the Project’s public safety impacts.

10. The FEIR Fails to Adequately Evaluate the Project’s Inconsistency with the County’s General Plan and the Squaw Valley General Plan and Land Use Ordinance.

As we explained in our prior letter, the Project is in many ways inconsistent with the Placer County General Plan and the Squaw Valley General Plan and Land Use Ordinance (“SVGPLUO”), and the EIR's analysis of these inconsistencies is deeply inadequate. It is important to keep in mind the distinction between these flaws. The CEQA issues may potentially be resolved if, for example, the County finds, based on substantial evidence, that (1) the conflicts constitute a significant and unavoidable impact, and (2) the Project's benefits outweigh that impact. See Public Resources Code § 21081. However, no amount of CEQA analysis or disclosure could cure the obvious conflicts between the proposed Project and the County's General Plan and SVGPLUO. Because the Project conflicts with fundamental planning provisions so as to result in significant environmental impacts, and because the FEIR has failed to adequately identify these conflicts in the EIR, approval of the Project would violate not just CEQA, but also the California Planning and Zoning Law, Government Code § 65000 et seq., and the Subdivision Map Act, Government Code §§ 66473.5, 66474.

We will not reiterate each of the inconsistencies we raised in our prior letter. Instead, we will focus on a few of the most egregious violations.

a. General Plan Policy 3.A.7

Because the Project would result in severe, unmitigated traffic congestion and degraded intersection and roadway operations, we explained that the Project would be flatly inconsistent with General Plan Policy 3.A.7, which calls for the County to maintain levels of service (“LOS”) D or higher on roadways and at intersections. FEIR at 3.2.4-432 (comment no. 09-223); DEIR at 9-59-63. As we noted, Policy 3.A.7 does
allow exceptions to the LOS standards, but requires that factors such as increased air and noise pollution, general safety, and quality of life be taken into account. See General Plan Circulation Element at 71, 72. Rather than acknowledge this conflict, and more importantly, resolve it, the applicant proposes to adopt a new policy, Policy CP-1, that would make LOS F an acceptable LOS within the Specific Plan area. See FEIR at 3.2.4-334 (response no. 08d-12; FEIR at 3.2-4-533 (response no. 9-223); FEIR at 3-89. This proposed policy change represents bootstrapping at its best. The policy amendment would do nothing to change the fact that the Project would create gridlock conditions on area roads and intersections. It simply absolves the County of any responsibility for facilitating such degraded conditions. But the reality of congested roadways, increased traffic noise, increased air pollution and greenhouse gas emissions, and risks to public safety (due to protracted emergency response and evacuation times) would remain. Put simply, the applicant’s proposed approach demonstrates a disturbing disregard for the County’s General Plan provisions intended to protect the environment and human health and well-being.

The FEIR manufactures a spurious rationale when it suggests that the Project’s circumvention of this protective policy is somehow acceptable because of the State legislature’s passage of SB 743. Specifically, the FEIR states that LOS and its relationship to environmental impacts has always been a policy issue and in certain instances LOS D, E, or F may not be considered significant because some agencies consider traffic congestion acceptable. FEIR at 3.2.4-533 (response no 09-223). The EIR authors are correct that, in certain circumstances, degraded levels of service are considered acceptable. This is largely because mitigation for increased vehicular delay often involves increasing roadway capacity which, in turn, may increase auto use and emissions, and discourage alternative forms of transportation. The purpose of SB 743, however, is to encourage mixed-use transit-oriented development, to reduce GHG emissions, and to support development of multimodal networks. It is particularly disingenuous that the VSVSP EIR looks to SB 743 as a rationalization as to why traffic gridlock in a mountainous area should be considered acceptable. The proposed Project is not transit-oriented development, is virtually 100% auto-oriented, and would actually increase, not decrease, GHG emissions.

Moreover, the EIR errs because it does not evaluate the environmental impacts that would result from the adoption of Policy CP-1. Because this policy would make LOS F acceptable at intersections in the Specific Plan area, traffic would no longer be a constraining factor for future development proposed within the study area. In other words, future land use projects in the area could generate massive amounts of traffic, yet
the impacts caused by this traffic would inevitably be considered a less than significant land use impact. The VSVSP EIR ignores this reasonably foreseeable scenario. Consequently, the document must be revised to evaluate the ways in which removing this obstacle to development could foster additional growth. The revised EIR must also evaluate the environmental impacts that would result from this growth including, but not limited to, traffic, air quality, noise, GHG emissions, biological resources, water supply and water quality.

b. General Plan Policy 3.A.8

Like the FEIR, the DEIR also glosses over the Project’s glaring inconsistency with General Plan Policy 3.A.8. This policy states:

"The County shall work with neighboring jurisdictions to provide acceptable and compatible levels of service and joint funding on the roadways that may occur on the circulation network in the Cities and the unincorporated area."

The FEIR reasons that this policy “simply requires that the County work with neighboring jurisdictions on solutions for the circulation network” and that the policy does not preclude development that would affect roadways in neighboring jurisdictions. FEIR at 3.2.4-534 (response no 09-224). This conclusion is absurd. The intention of the General Plan is unambiguously to avoid local and regional impacts to area roadways. This policy clearly indicates that the County and neighboring jurisdictions are to work together to achieve acceptable and compatible levels of service. The FEIR provides no evidence that the County or the applicant has made any attempt to work with local jurisdictions to provide acceptable levels of service. Consequently, the proposed Project would result in significant impacts in contravention of this policy.

c. General Plan Policy 1.G.1

As we explained, it is indisputable that the Project is inconsistent with Policy 1.G.1, which calls for the County to support the expansion of winter ski and snow play areas where the transportation system capacity can accommodate the expanded uses and where environmental impacts can be adequately mitigated. The Project would result in numerous significant and unavoidable transportation impacts, but the FEIR authors boldly assert that the Project would not result in exceedance of transportation system capacity. FEIR at 3-59. Not only does the FEIR’s assertion belie common sense, it is also contradicted by the DEIR itself. The DEIR uses volume to capacity as the
significance threshold for determining impacts to roads and intersections. DEIR at 9-32. A volume-to-capacity ratio is a measure that compares a roadway demand (vehicle volumes) with roadway supply (carrying capacity). The volume of traffic from the Project would exceed the capacity of certain roadway segments and come close to exceeding the roadway or intersection capacity at other locations. See e.g., DEIR at 9-49 (Table 9-20, showing that Squaw Valley Road between Squaw Creek Road and the village area would operate at a V/C ratio of 1.02), DEIR at 9-64 (Table 9-23, showing that state highway segments such as SR 28 east of SR 89 would operate at a V/C capacity of 0.96). Nor can the DEIR credibly assert that the Project’s myriad significant traffic impacts have been adequately mitigated because, as mentioned above, the EIR ultimately concludes that these impacts would be significant and unavoidable. DEIR at 9-57-9-63.

d. General Plan Policies 1.K.1 and 1.K.5

The DEIR concedes that the Project would result in significant and unavoidable impacts to visual impacts. DEIR at 8-50; 8-53; 8-56; 8-60. Consequently, the Project would be flatly inconsistent with General Plan policy 1.K.1, which requires new development to maintain the character and visual quality of the area, and policy 1.K.5, which requires the design of new development to fit the natural terrain. FEIR at 3.2.4.440 and 441. The FEIR authors attempt to spin this inconsistency as best they can when they assert that “the project appears to be visually consistent with the character of the project area, even if it would result in significant visual impacts.” This sentence is not only illogical, it is meaningless. Recognizing its vulnerability, the FEIR then suggests that the Project would be consistent with these General Plan policies because the EIR’s mitigation measures would reduce impacts to scenic resources. See FEIR at 3.2.4-538, 539 (response 09-244). Yet, the EIR’s conclusion that the Project’s visual resources impacts would be significant and unavoidable undercuts this argument entirely.

e. General Plan Policies 6.A.3 and 6.C.1

In numerous instances, the DEIR made many of the Project’s inconsistencies with the General Plan clear. For example, the DEIR acknowledged the Project’s significant impacts to sensitive habitats including wetlands, wet meadows, and riparian vegetation. DEIR at 2-14 through 2-39; FEIR at 3.24-535 (response no. 09-231). These impacts make the Project inconsistent with, for example, General Plan policies 6.A.3, and 6.C.1, which require the County to avoid impacts to and protect such resources. In responding to our comments, the FEIR suggests that biological resources mitigation measures would eliminate any General Plan inconsistencies. FEIR at 3.2.4-535 and 536 (response numbers 09-230 and -9-231).
Although these mitigation measures may serve to offset the loss of habitat and wildlife that the Project would cause, they do not resolve the conflicts between the Project and the General Plan. For example, Mitigation Measures 6-1a and 6-1b require the applicant to provide compensatory habitat and to comply with restoration standards. Mitigation Measure 6-9 requires the applicant to compensate for tree removal. These measures do not prevent impacts—they are after-the-fact measures designed to make up for losses. Restoring habitat elsewhere does not "preserve" the area's established resources, as the General Plan requires.

f. General Plan Policy LU-P-5

The FEIR also fails to adequately respond to comments or ignores comments entirely. For example, the FEIR fails to respond to our comment that the Project is inconsistent with Placer County Area Plan policy LU-P-5, mandating that the County "[d]irect development towards Town Centers and preserve the character of surrounding neighborhoods." FEIR at 3.2.4-446 (comment no. 09-259, 260) and 3.2.4-543. As we explained, the Project is clearly inconsistent with this policy because it locates a substantial amount of development seven miles northwest of the town center of Tahoe City and captures redevelopment potential that could otherwise be directed to Tahoe City and Kings Beach. The FEIR's response directs the reader to Master Response 3.1.15, however this response fails to address this issue at all.

g. SVGPLUO Policies

The FEIR also fails to resolve the numerous inconsistencies with the SVGPLUO. For example, while the FEIR acknowledges that the Project would be inconsistent with provisions in the SVGPLUO calling for new development to meet certain standards, "including that they not increase peak-period congestion and delay (SVGPLUO, page 44)," the FEIR uses flawed reasoning to conclude that the Project is consistent with this policy. FEIR at 3.2.541 (response no 09-253). The FEIR simply downplays the Project's significant increase in traffic trips, congestion and delays, and goes so far as to assert that the DEIR likely overestimated Project-related trips so that peak-period conditions will be acceptable. Id. at 3.2.542. The EIR cannot have it both ways. If the DEIR's analysis was inaccurate, it should be revised to correct the errors. If the DEIR's analysis was correct, intersection and roadway levels of service would operate at unacceptable service levels, resulting in inconsistency with the SVGPLUO.
11. The EIR Continues to Provide a Misleading and Incomplete Analysis of the Project’s Population, Employment, and Housing Impacts and Growth-Inducing Impacts.

Sierra Watch and others commented that the DEIR’s analysis of the Project’s population, employment, and housing and growth-inducing impacts were inadequate and underestimated the Project’s impacts. Rather than correct these inadequacies, the FEIR still obfuscates the Project’s true impacts by, for example, presenting the information in a way that unrealistically minimizes the number of individuals the Project would draw to the area as employees. First and most egregiously, the EIR obscures the Project’s impacts from bringing in new employees by continuing to rely on “FTE”—or full-time equivalent—employees to characterize the number of employees the Project would attract, despite the fact that the average number of FTE employees year-round is far below the actual number of people who would be working at the Project during the peak seasons.

The County claims that it is appropriate for it to consistently refer to the Project as adding an estimated 574 FTE employees “because the County’s employee housing policy is based on FTEs.” FEIR at 3.2.4-657 (response no. 012b-10). This makes no sense. The County’s employee housing policy is relevant only for determining whether the Project satisfies the County’s requirement for providing a certain amount of employee housing. It has nothing to do with the actual number of employees coming to the area, especially when some of them would be part-time. See DEIR at 9-34.20 Remarkably, the EIR fails to mention anywhere in the EIR except in the Transportation chapter that some employees would be part-time, and nowhere reveals the total number of part-time employees. See id.

20 The County argues that “the total number of employees is anticipated to be consistent with the FTEs, because most shifts would be 8 hours.” FEIR at 3.2.4-657 (response no. 012b-10). This is not convincing. “FTE” means “full-time equivalent,” and a full-time employee would work eight hours a day five days a week—40 hours per week. A part-time employee who works an eight-hour shift may work only two or three days a week (16-24 hours per week), and thus one “FTE employee” may, in reality, be made up of two individuals. With a significant number of part-time employees (see DEIR at 9-34), counting employees by FTE underestimates the actual number of individuals who would be employed.
Estimating how many employees would be full- or part-time is essential to an adequate analysis of the Project's population, employment, and housing impacts. As Nevada County Supervisor Richard Anderson explained in his comments on the DEIR, two employees each working half-time would count as only one "FTE employee," but both of these people would need housing. FEIR at 3.2.3-3 (comment no. L1-2). Bringing greater numbers of employees to the area causes additional impacts as well, such as more people driving to the resort, with attendant impacts to traffic, air quality, and parking shortages, as discussed above. Relying on "FTE employees" to describe the number of employees the Project would bring to the area causes the EIR to fail its informational purpose and is completely misleading.

Relying on "FTE employees" as the measure of the Project's employees also results in the appearance that more employees would have on-site housing than the Project could actually provide. For example, when downplaying the Project employees' demand for housing, the County states that "fifty percent of the FTE housing would be provided by the project." FEIR at 3.2.4-544 (response no. 09-264). This is technically true, but it makes it sound like around half of the housing needed by the Project's new employees would be provided by the Project—which is not true. Only 201 of the Project's projected maximum 751 new employees would have on-site housing.

Even worse, in its response to comments, the County states that because of the Project's on-site housing, only 375 employees would need to look for off-site housing. FEIR at 3.2.4-657 (response no. 012b-10). The County's math is wrong. The Project would, during peak seasons, bring approximately 751 new individuals to the area as employees. DEIR at 9-34. The Project-provided housing would accommodate 201 of the new employees. DEIR at 5-12 – 5-13. This leaves 550 new employees during the peak season seeking housing elsewhere in the Olympic Valley and beyond—not 375.

Further, the EIR underestimates the number of the Project's employees who would seek off-site housing because the EIR assumes the Project's on-site housing would be equally appropriate to house all its employees. However, the Project's on-site housing will be mostly dormitory-style, with residents living four to a room, in bunk beds. DEIR Appx. D at 4. A few of the units would be private studio apartments for couples or individuals desiring more privacy. Id. However, none of these options are viable for employees with families, meaning all those employees would have to seek off-site housing.

Second, in response to our comment that the EIR should consider housing impacts based on when demand is highest, the County essentially argues that because the
Project’s employees would be largely seasonal, they would have negligible demand on housing. For example, the County claims that “a large percentage of [seasonal] employees will seek temporary housing,” such as “rent[ing] rooms in existing homes in the region,” and thus they “do not, typically, require (or can afford) new housing accommodations.” FEIR at 3.2.4-544 (response no. 09-264). The EIR then concludes that, accordingly, these employees will not significantly increase demand on housing in the area. This defies logic.

There are, presumably, a finite number of individual rooms or other affordable housing available for rent in the area, but the EIR acts as if these are a limitless resource available to seasonal employees, thereby failing to consider the impact of increased competition for this housing resource. Also, that seasonal employees would not seek out (or be able to afford) newly constructed housing in the area does not mean that they would not potentially increase demand on housing to the point that new housing must be built. Or that, should the employees be unable to find affordable housing in the area, that they would not commute from long distances where they could find such housing, thereby adding to traffic, VMT, and air quality impacts. Indeed, the EIR recognizes that there is a “known lack of affordable housing” in the area. FEIR at 3.2.4-658 (response no. 012b-10) (emphasis original). Those 550 new employees—or the people they displace in their hunt for affordable housing—would need to sleep somewhere during the peak season. The EIR must disclose this and discuss the impacts of developing housing or other methods to meet this demand.21

Third, the EIR’s application of lodging-occupancy assumptions to employee occupancy is unjustifiable. The EIR claims that the Project’s on-site employee housing, which would provide housing for 201 new employees, would “result in an average overnight population increase of 111 individuals, assuming a 55% occupancy rate on average for the year.” DEIR at 5-11. In our comments, we pointed out the clear error of assuming only 55% occupancy of employee housing, based on hotel occupancy.

21 The EIR also attempts to minimize the impact of the new employees the Project would bring to the area by claiming that “[m]any of the employees may currently reside in the general project area, and may commute to Olympic Valley from an existing residence.” DEIR at 5-11. The EIR makes this claim right after it describes the Project’s employees as “fluctuat[ing]” and “largely transient.” Id. The County strains credulity when it claims in the same breath that employees would have few housing impacts because they are largely transient and that they would have few housing impacts because they already live in the area.
See FEIR at 3.2.4-449 - 450 (SMW letter, comment no. 09-265). We commented that the DEIR must explain why applying a 55% occupancy rate to employee housing is appropriate. Id. The County’s lackluster response in support of its employee-occupancy assumption is that “[e]mployment would be expected to fluctuate seasonally, concurrently with use (occupancy) of the project.” FEIR at 3.2.4-544 (response no. 09-265). This is an insufficient explanation.

Short-term lodging occupancy and employee occupancy are not directly correlated. The 55% average annual occupancy rate is based on tourist-lodging occupancy assumptions that range from 28% in November, the slowest month, to 77% in August, during the high season. See FEIR, Appx. A (Updated Water Supply Assessment), Appx. A (Farr West), Appx. A (McKay & Somps), Appx. A (Updated Water Demand Calculations) at 3, 8. But the EIR uses these same occupancy assumptions for employee occupancy, despite a complete lack of evidence—much less substantial evidence—supporting this approach. See DEIR at 5-11. Indeed, the most reasonable assumption in this case would be that employee occupancy rates would not be directly correlated to lodging occupancy rates, because there will always be a certain minimum number of employees necessary to run a resort, regardless of how many overnight visitors are actually in residence.

And even if a lower-than-100% occupancy rate could be assumed for the Project’s employees generally, it is inappropriate to assume anything less than 100% occupancy of the on-site employee housing. The EIR claims that the Project’s new employee housing for 201 individuals would result in “an average overnight population increase of 111 individuals, assuming a 55% occupancy rate for the year.” DEIR at 5-11. However, the Project’s on-site housing would accommodate only 201 of the up to 791 new employees that the Project would bring to the area, meaning there will be far more demand by employees for this limited affordable housing than there would be by tourists for the Project’s expansive luxury lodging.

If nothing else, during the high season, when there will be 791 new employees seeking housing in the area, there will certainly be 100% occupancy of provided employee housing. But even during the slow season, when the number of the Project’s employees would be lower, it is most likely that the on-site employee housing will be full. As explained in the EIR and below, there is a shortage of affordable housing

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22 As noted above, these occupancy assumptions are too low for the Project, even for tourist lodging.
in the area, and the on-site housing is exactly the kind of affordable housing that the Project's generally low-wage employees would need. Accordingly, it is most likely to be the first housing filled by the Project's employees. The County's position that affordable, on-site employee housing—likely to be the most desirable housing available to employees—would be, on average, only half-full throughout the year is absurd.

Fourth, the FEIR still does not adequately explain how the Project's employees' commercial and service needs would be satisfied. See FEIR at 3.2.4-449 (SMW letter, comment no. 09-263). The County emphasizes that the Project would include substantial "tourist-serving commercial space," (FEIR at 3.2.4-544 (response no. 09-263)), but beyond a convenience store geared toward employees, it does not explain how the Project would provide for employees' needs, which would likely differ substantially from short-term, recreational visitors' demands. For example, the County explains that the existing Intrawest Squaw Village's commercial space is "underutilitized" and could thus provide employees with what they need. FEIR at 3.2.4-653 (response no. 012b-2). But that space is geared toward the demands of tourists and other short-term, recreational visitors. It is not designed to serve the needs of longer-term residents, who need things like affordable groceries, healthcare, clothing, housewares, and hardware—not spas, art galleries, chocolatiers, and the high-end pet emporium provided at Intrawest Squaw Village (see http://squawalpine.com/events-things-to-do/village/shopping). To provide the public and decision-makers with sufficient information to accurately assess the Project's impacts—which may include inducing new development or travel in response to new demand for retail and services from employees—the EIR must supply this information.

The County also claims that we did not provide "specific details related to the needs of employees that should have been discussed" in the EIR. FEIR at 3.2.4-546 (response no. 09-273). Actually, this is what we were asking the County to address, which is its responsibility under CEQA—not ours. Further, the County should know what sort of needs we were asking to be discussed because the DEIR analyzed, albeit inadequately, how the needs of employees living on-site would be met. We also asked that the same analysis be made for the same needs of employees living off-site, who would be far less likely to use the convenience store and other retail offerings on the Project site. FEIR at 3.2.4-452 (SMW letter, comment no. 09-273). The FEIR did not correct this error.

Finally, the FEIR still does not consider how the Project might lead to further recreational and tourism growth in the Project area, or induce other resorts in the greater Tahoe area to expand. See FEIR at 3.2.4-453 – 453 (SMW letter, comments nos.
09-275, 09-276). The County responds that the Tahoe region “exists as [a] tourist destination” due to “snow-sports and supporting resorts.” FEIR at 3.2.4-546 (response no. 09-275). Thus, it continues, there is no reason to think the Project would “somehow substantially increase the likelihood of inducing further recreational and tourism growth in the area beyond what would be created by the project.” *Id.*

But, as the EIR makes clear, the predominant goal of the Project is to transform Squaw Valley from a winter-sports resort to a year-round resort—something new to Tahoe. *See, e.g.*, DEIR at 3-7. This influx of new summer visitors would very likely encourage development of other tourist-serving, summer recreational opportunities unlike anything Tahoe has seen before. Indeed, the County itself admits the value of our request, acknowledging that it “may have had merit [i]f the project was the first resort constructed near Lake Tahoe.” But the County dismisses the necessity of the analysis here because the area is full of resorts like “Northstar, Heavenly Ski Resort, Homewood Ski Resort, Donner Ski Ranch, Sugar Bowl, [and] Boreal.” FEIR at 3.2.4-546 (response no. 09-275). These are all winter resorts. The EIR should analyze the impact of this first-of-its-kind year-round resort on tourism-related growth in Tahoe, as it will assuredly escalate the “arms race” of attractions in the area.

12. **The EIR’s Analysis of Impacts to Public Services and Utilities Remains Inadequate.**

The FEIR fails to correct the problems we identified in the DEIR’s analysis of the Project’s impact on public services and utilities. First, we commented that the DEIR must analyze the environmental impacts of constructing wastewater-detention facilities for the Project. These facilities would be constructed as mitigation for the Project’s predicted overloading of the Truckee River Interceptor (“TRI”), and would hold sewage and release it slowly to avoid overwhelming the TRI. *See DEIR at 14-36.* Instead of correcting this deficiency, the County claims that “because the wastewater detention facility would be within the project site, the impacts would be the same as impacts from development of other parts of the project.” FEIR at 3.2.4-546 (response no. 09-277).

However, merely being situated within the Project’s footprint does not mean that the wastewater-detention facilities would have the same impacts as other aspects of the Project. Tanks full of sewage—whether installed above or below ground—pose unique environmental impacts that are not associated with any other aspect of the Project. For example, tanks could leak and cause ground or surface water contamination, yet the EIR provides no analysis of these potential impacts. Tanks holding sewage also
require ventilation, and the EIR must disclose and analyze the impact on air quality—especially the odor impacts—of off-gassing from these sewage tanks. Despite our comments warning of this fatal deficiency in the DEIR, the FEIR nowhere identifies or analyzes the particular impacts of the new wastewater-detention facilities.

And to be able to adequately analyze the wastewater-detention facilities’ impacts, the EIR must identify likely locations for the facilities and discuss the unique impacts that may arise in specific locations. For example, the threats posed by leaks or spills of sewage would differ in nature and severity based on the location of the tanks. Odors would have different impacts depending on how close the detention tanks are to areas frequented by people, and especially to sensitive receptors. Additionally, in some locations, impermeable underground tanks may intercept and block or divert groundwater flow. Without a description of the wastewater detention facilities, including locations, and without disclosure of the facilities’ potential environmental effects, the EIR cannot pass muster. See CEQA Guidelines § 15126.4(a)(1)(D) (requiring that an EIR analyze the environmental impacts of mitigation measures).

Second, the FEIR fails to correct the DEIR’s lack of an adequate analysis of the environmental impacts of constructing a new fire station, which would be necessary to mitigate the Project’s impact on emergency services. DEIR at 14-44. Specifically, the EIR does not provide any substantive discussion of the impacts of building a fire station outside of the Project Area, stating only that the station’s construction and operation “would have similar environmental effects to other relatively small development projects in Olympic Valley, including construction and operational traffic, air emissions, and noise.” FEIR at 3.2.4-546 (response no. 09-278) (quoting DEIR at 14-44).

Identifying only the broad categories of possible impacts, like the EIR does here, is not a sufficient analysis of a mitigation measure’s impacts. That CEQA allows a less-detailed impacts analysis for mitigation measures (see CEQA Guidelines § 15126.4(a)(1)(D)) does not give the County leave to reduce the level of detail in its “analysis” to be so vague that virtually no information about the possible impacts is discernable. If allowed to rely on such scant description, an EIR could not achieve its fundamental informational purpose, which requires that the agency make “a good faith effort at full disclosure.” CEQA Guidelines § 15151.

Nor does the County’s claim that this is a “programmatic” EIR eliminate its duty under CEQA to provide some analysis of an off-site fire station’s environmental impacts. See FEIR 3.2.4-547 (response no. 09-278). As explained above in Part I.A(1), environmental review must be made at the earliest possible date. Certification of the EIR
and adoption of the Specific Plan and associated requested approvals would grant entitlements to build the Village at Squaw Valley as described in the EIR and commits the County to a course of action that would result in the need for a new fire station, which may be built off-site. Accordingly, the County must disclose and analyze the impacts of an off-site fire station now, to the extent feasible.

Third, the FEIR continues to underestimate the Project’s potential significant impacts to recreational resources, such as existing backcountry hiking trails, from bringing thousands of new visitors and residents to the Olympic Valley. See FEIR at 3.2.4-454 (SMW letter, comment no. 09-280). The County claims that because the Project would comply with the Placer County General Plan’s requirements for park space and other recreational opportunities, the Project would not cause substantial deterioration of existing recreational resources. FEIR at 3.2.4-547 (response no. 09-280). This is the sole basis for the EIR’s determination that the Project would not have a significant impact on recreational resources.

However, the General Plan’s recreational requirements cannot account for all of the Project’s demands on recreational resources. The scope of the General Plan’s requirements for recreational opportunities are tied to the number of new residents a new development would bring to the area—not the number of tourists and other recreational visitors that it would bring. See DEIR at 14-42. Accordingly, the General Plan’s requirements alone would not provide for the massive influx of non-resident visitors to the Olympic Valley that the Project promises. Further, unlike residents, who would only occasionally use recreational resources, tourists and visitors come to Squaw Valley solely to use recreational resources. This means that, on a per-capita basis, recreational visitors would have a greater impact on recreational resources than residents would. The EIR fails to explain how mere compliance with a County policy related to providing enough recreational resources for residents would somehow ensure that a massive influx of recreation-seeking visitors does not contribute to the deterioration of existing resources.

Compounding the Project’s impact on recreational resources is the fact that the Project would “provide enhanced access to existing public amenities” and develop “picnic areas, ... signage, trailheads, and new restrooms,” making these resources easier to use and more attractive to users. See FEIR at 3.2.1-21 (response no. F2-2). But the EIR does not disclose the impacts of bringing more users to existing recreational resources like hiking trails. For example, the Granite Chief Trail—which has a trailhead in the Olympic Valley that the Project would develop with “parking, signage, and bike parking” (id.)—intersects with the Pacific Crest National Scenic Trail (“PCT”), (FEIR 3.2.1-9 (comment no. F2-3)). Commenting on the Project’s potential to drive up use of
existing trails, the Forest Service warned that “[i]ncreased use of the PCT may affect recreational experience as well as degrade the trail itself which is not designed for such heavy use” and expressed concern that “[t]he potential impacts to the PCT are not addressed anywhere in the [EIR].” Id.

Instead of analyzing the likely impacts that we and the Forest Service identified, the County attempts to downplay the Project’s impacts on recreational resources by responding that the improvements to the Granite Chief Trailhead “would be for the sole purpose of providing safer access for hikers currently using existing trails.” FEIR at 3.2.1-21 (response no. F2-3). Not only does this ignore the reality that better facilities would increase use, this directly contradicts the EIR’s explanation in the preceding paragraph that the plan to provide more parking and better signage at the Granite Chief Trailhead would be part of the Project’s development of “new and expanded public recreational facilities” to accommodate increased demand. FEIR at 3.2.1-21 (response no. F2-2). The County cannot have it both ways, simultaneously claiming that its improvements would provide sufficient recreational opportunities for a steep increase in visitors and asserting that those improvements would have no impact on existing trails like the PCT because they are merely intended to provide safer access for existing users.

Finally, the FEIR fails to correct the deficiencies we identified in the DEIR’s cumulative-impacts analysis for public services and utilities. See FEIR at 3.2.4-454 – 455 (SMW letter, comment no. 09-281). Instead, the County claims that “[b]ecause[] the project would fully mitigate its impacts on public services, a significant cumulative impact would not occur.” FEIR 3.2.4-547 (response no. 09-281). This is wrong for two reasons.

First, some of the Project’s contributions to cumulative impacts on public services and utilities would not be mitigated. Specifically, some of the Project’s impacts would be less than significant, and mitigation is not required for these small impacts. This is exactly why CEQA requires that an EIR analyze small impacts like these that may alone be insignificant but would contribute to larger, cumulative impacts. See CEQA Guidelines § 15355(b) (“Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.”).

For example, the EIR explains that the development of residential and commercial space “could increase demand for sheriff/police protection” and “[e]mergency response times [to the area] could increase due to increased calls for service, especially during peak periods” but determines these impacts would be less than
significant. DEIR at 14-45. These are small but very real impacts, and this is exactly what a cumulative-impacts analysis is designed to account for—but the EIR ignores these impacts. The EIR should also explain whether the Project’s less-than-significant solid-waste generation impact might nonetheless contribute to a cumulatively significant impact on waste management in the area. See DEIR at 14-38. Likewise, the EIR should analyze the incremental contributions to cumulative impacts on recreational resources of the Project’s purportedly less-than-significant impact on hiking trails and other recreational resources. See DEIR at 14-42–43.

Next, the information in the EIR does not support the County’s claim that the Project would “fully mitigate” its impacts on public services and utilities. Mitigation measures need only to “minimize” significant impacts—not fully eliminate an impact. See CEQA Guidelines § 15126.4(a)(1). Accordingly, mitigated impacts may still contribute to cumulatively significant impacts. For example, the EIR concludes that its mitigation for impacts on wastewater collection “would reduce the potential impact to sewer capacity to a less-than-significant level.” DEIR at 14-37. But there would still be some impact to the regional sewer system, and the EIR must therefore analyze this incremental contribution to cumulative impacts, or provide evidence that the Project would make no such contribution at all. See CEQA Guidelines § 15355(b). The EIR must similarly analyze the Project’s contributions to cumulative impacts on fire and emergency services. See DEIR at 14-45.

13. The EIR Still Fails to Provide an Adequate Analysis of the Project’s Energy Efficiency.

The County also failed to correct deficiencies in the EIR’s energy-efficiency analysis. In our comment, we explained that the DEIR could not accurately evaluate the Project’s energy efficiency by comparing its proposed energy consumption to existing developments in the area because true energy efficiency can be determined only by comparing the Project’s energy demands to contemporary standards. FEIR at 3.2.4-455 (SMW letter, comment no. 09-284). In response, the County claims, perplexingly, that it need not make this comparison because “[t]he question, under CEQA, is whether a project would result in a wasteful or inefficient use of energy,” FEIR at 3.2.4-548 (response no. 09-284). Actually, under CEQA, the question is whether a project would result in “wasteful, inefficient, and unnecessary consumption of energy.” Cal. Clean Energy Comm. v. City of Woodland (2014) 225 Cal.App.4th 173, 209 (emphasis added); accord CEQA Guidelines, Appx. F(I); see also CEQA Guidelines § 15126.4(a)(1) (mitigation measures should be used to mitigate “inefficient and unnecessary consumption of energy”) (emphasis added). As we commented, the EIR
fails to provide sufficient information to determine whether the Project is energy efficient by today’s standards, which is essential to determining whether the Project would consume only the amount of energy necessary.

Further, the Project’s compliance with Title 24 Building Code energy efficiency-standards does not establish that the Project, if built, would be energy efficient. See Cal. Clean Energy, 225 Cal.App.4th at 211. While the Building Code addresses energy savings for buildings themselves, it does not include other relevant energy-efficiency considerations like “whether a building should be constructed at all, how large it should be, where it should be located, whether it should incorporate renewable energy resources, or anything else external to the building’s envelope.” Id.

The FEIR fails to adequately address comments relating to energy use associated with vehicular trips. We explained that the DEIR underestimated the extent of the Project’s transportation energy impacts because it relied on an inaccurate estimate of the Project’s vehicle miles traveled (“VMT”). FEIR at 3.2.4-456 (SMW letter, comment no. 09-286). The FEIR refers the reader to responses to comments 09-114 through 09-134 which in turn directs the reader to responses to letter 08-d. Id. at 3.2.4-549. Yet, the responses to letter 08-d seek to defend the faulty analysis in the DEIR. Consequently, the EIR continues to underestimate the Project’s trip generation and VMT. For example, as we explain above in Part I.B(3)(a), the EIR substantially underestimates the number of trips that would be generated by the indoor water park. Once the EIR is revised to include an accurate estimate of trips that would be generated by the water park, it must revise its VMT estimates, and its analysis of the Project’s transportation-related energy impacts.

We also commented that the EIR does not provide any discussion of appropriate renewable-energy options for the Project. FEIR at 3.2.4-456 (SMW letter, comment no. 09-288). The County responds that the proposed Specific Plan contains policies related to energy efficiency. FEIR at 3.2.4-550 (response no. 09-288). But these proposed policies merely “encourage” use of renewables and instruct that the Project applicant “explore” renewable options. DEIR at 14-26 – 27. First, these aspirational policies do not provide analysis of renewable-energy options that are actually viable for the Project, which is necessary for a good-faith analysis of the Project’s energy efficiency. Cal. Clean Energy, 225 Cal.App.4th at 213. Further, the EIR should not just “encourage” or direct “exploration of” use of renewables—for the Project to truly aim to meet Appendix F’s goal of “increasing reliance on renewable energy sources,” the EIR should require use of renewable energy to the extent feasible. See CEQA Guidelines Appx. F(I)(3).
The County also attempts to evade its obligation to provide a complete analysis of the Project’s energy efficiency by claiming that specific analyses we requested were only suggested topics that Appendix F says “may” be discussed. See FEIR at 3.2.4-550 (response no. 09-289). That Appendix F does not require any particular discussion—instead listing topics that may be addressed as part of an EIR’s energy-efficiency analysis—does not mean that the County is not obligated to make a good-faith effort to fully analyze whether the Project would result in an “inefficient, wasteful[, or] unnecessary consumption of energy.” CEQA Guidelines, Appx. F(I); see also CEQA Guidelines § 15151 (requiring a “good faith effort at full disclosure”).

Indeed, part of adequately informing the public and decision-makers about the Project’s energy efficiency is to explain whether there are more energy-efficient methods for constructing the Project, as we indicated in our comment on the DEIR. See FEIR at 3.2.4-457 (SMW letter, comment no. 09-289). The EIR fails to do this.

The County’s also brushes off our comment that the EIR erred in assuming that construction materials for the Project would be produced energy-efficiently. We pointed out the critical logical fallacy in the EIR’s analysis, explaining that “[e]nergy-efficient and economically efficient are not always synonymous” because cheap and plentiful nonrenewable resources may encourage wasteful manufacturing. FEIR at 3.2.4-457 (SMW letter, comment no. 09-290). Not only does the County fail to correct that error, it takes the position that it need not make such an analysis because “[t]he applicant would not control the manufacturing process for materials used to construct the project.” FEIR at 3.2.4-550 (response no. 09-290).

This excuse does not hold water. In almost no situation would the party constructing a building also manufacture the construction materials. However, the builder does control what materials it purchases, and the EIR can analyze the relative energy-efficiency of potential materials. Indeed, Appendix F contemplates just such an analysis. See CEQA Guidelines, Appx. F(II)(C)(1) (“If appropriate, the energy intensiveness of materials may be discussed.”).

Finally, the FEIR fails to adequately address our comment that the DEIR did not conduct the required comparative evaluation of whether any Project alternative would result in more or less energy use. See FEIR at 3.2.4-457 (SMW letter, comment no. 09-291). The County responds that comparative energy consumption of the alternatives is discussed in Chapter 17 of the EIR. FEIR at 3.2.4-550 (response no. 09-291). It is not.
14. **The EIR’s Cumulative Impacts Analysis Remains Inadequate.**

The FEIR’s failure to adequately analyze the Project’s cumulative impacts is discussed throughout this letter and the firm’s letter on the DEIR in conjunction with each environmental issue area. However, the FEIR also fails to include, as requested by Sierra Watch and many other commenters, an adequate analysis of the Project’s impacts in conjunction with probable future and concurrent projects, such as the Martis Valley pipe (Project 60), the base-to-base gondola, and White Wolf. The response to comments points the reader to the Master Response regarding cumulative impacts. FEIR at 3.2.2-550 (response to comment nos. 09-294–09-295). However, the Master Response does not mention the Martis Valley pipe at all. It does claim that cumulative projects were limited to those under review before the “cut off” set by the County, which is the time of the NOP (here, February 2014). As noted in the firm’s comments on the DEIR, the Squaw Valley Public Services District proposed its water project (to deliver water from Martis to Squaw) as part of the Tahoe Sierra Integrated Water Management Plan in December 2013, before the alleged “cut off.” See FEIR at 3.2.4-345 (SMW comment letter, comment no. 09-17, and Exhibit 8 thereeto).

The FEIR claims the base-to-base gondola and White Wolf did not meet the County’s “cut off” and therefore were not probable future projects under CEQA. As explained above (supra, Part I.A(2)) this argument is specious as the gondola is proposed by the same applicant as the Project and will be used to connect Squaw and Alpine, resorts under common ownership. Furthermore, the applicant has been in frequent communication with the owner of White Wolf over the gondola project and the proposed development at that site. See Exhibit 24 (Squaw Magazine article re Troy Caldwell). The EIR may not use a cut off date that clearly excludes known projects in the pipeline in the immediate vicinity of the Project.

The FEIR nevertheless attempts a brief analysis of the gondola (but not White Wolf). See FEIR at 3-64–365. This does not come close to meeting CEQA’s standards, as it neglects to even mention, much less analyze, many potential significant impacts. This includes impacts to biological, recreational, and visual resources from the placement of the gondola in a wilderness area that is home to the Sierra Nevada yellow

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23 As discussed (supra, Part I.A(2)), the gondola and Project 60 are so intertwined with the Project that they should have been analyzed as part of the Project. At a bare minimum, however, the EIR must analyze them as cumulative projects.
legged frog, as well as air quality and growth inducing impacts from the facilitation of more visitors to the area and the development at White Wolf. See Exhibit 25.

A revised and recirculated DEIR must thoroughly analyze the Project’s cumulative impacts in conjunction with the above referenced projects.

C. The FEIR Fails to Correct the Deficiencies in the DEIR’s Alternatives Analysis.

1. The FEIR Fails to Provide a Reasonable Range of Alternatives.

In our prior comments, we informed the County that the DEIR failed to evaluate a reasonable range of alternatives to the whole Project. FEIR at 3.2.4-458–3.2.4-461. In response, the FEIR all but admits that two of the alternatives evaluated in the DEIR are not true alternatives to the Project, as they apply to narrow components and would increase the Project’s environmental impacts. See FEIR at 3.2.4-554 (response to comment no. 09-302, failing to defend “Squaw Valley Road” alternative), 3.2.4-55 (response to comment no. 09-303, acknowledging that “the Alternative Tank Location was evaluated due to the uncertainty of the project applicant to reach agreement on purchasing land encompassing the proposed tank site.”)

Furthermore, two additional alternatives evaluated in the DEIR are “no project” alternatives, and one focuses on protection of historic resources. Contrary to the FEIR’s claims, the EIR’s one remaining alternative does not constitute a “reasonable range” of alternatives under CEQA.

2. The FEIR Fails to Demonstrate the Infeasibility of Less Impactful Alternatives.

Although Sierra Watch and numerous other commenters requested that the EIR evaluate a version of the proposed Project without the indoor waterpark, the FEIR still refuses to do so. Instead, the FEIR claims the indoor waterpark is necessary to “provide a comprehensive, world-class, family resort experience to be competitive on an international stage.” FEIR at 3-75. The FEIR similarly indicates that the Reduced

24 The FEIR also continues to insist that removal of the indoor water park would not result in a substantial reduction in environmental impacts. This is partly because, as explained above, the EIR severely underestimates the Project’s impacts, including those generated by the indoor water park (e.g., traffic).
Density Alternative “may not meet project objectives for Squaw Valley to be on par with peer world class North American ski destinations.” FEIR at p. 3-62. Yet, the FEIR provides no evidence that an indoor water park is necessary to make Squaw a world-class resort, or that any/all other competitor resorts have such indoor water parks. Indeed, Squaw Valley does not need any new development, much less the mass-scale development proposed in conjunction with the Project, to be competitive as a world class resort. Indeed, Squaw Valley was recently voted the Number 1 Ski Resort in North America by USA Today, and was also selected by the US Ski Team as a host site for the proposed March, 2017 FIS Alpine World Cup. See Exhibit 26.

Furthermore, the FEIR fails to provide any information regarding the feasibility of the alternatives presented in the EIR, and most notably the reduced density alternative that appears to be feasible and would reduce Project impacts. This includes a failure to provide the requested financial feasibility data for the various alternatives, even while the FEIR admits that a financial consultant has prepared this analysis and submitted it to the County. The County should not delay in making this information available to the public, as it is critical that the public review any evidence the County may rely upon in making its feasibility determination. As noted in our letter on the DEIR, the County cannot approve the Project as proposed if there is a feasible alternative that would substantially lessen the Project’s significant impacts. Pub. Res. Code § 21002. An alternative need not meet every Project objective or be the least costly in order to be feasible. See CEQA Guidelines § 15126.6(b).

D. The FEIR Must Be Recirculated.

The firm’s comments on the DEIR set forth CEQA’s standard for recirculation. FEIR at 3.2.4-462 (comment no. 09-306) (citing CEQA Guidelines § 15088.5). The FEIR recognizes, as it must, that this is the correct standard, but asserts the standard has not been met here. FEIR at 3-109–3-111. The FEIR is incorrect. As demonstrated throughout this letter, Sierra Watch and others have presented information that reveals either new or more severe significant environmental impacts, or potentially feasible mitigation measures or alternatives to lessen these impacts, that have not been subject to review and comment in a DEIR. The County must revise and recirculate the DEIR to include proper analysis and mitigation of all the Project’s significant impacts. Otherwise, approval would be illegal under state law.
II. APPROVAL OF THE PROJECT WOULD VIOLATE THE STATE PLANNING AND ZONING LAW AND THE SUBDIVISION MAP ACT.

The State Planning and Zoning Law and the Subdivision Map Act require that development decisions be consistent with the jurisdiction’s general plan. As reiterated by the courts, “[u]nder state law, the propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements.” Resource Defense Fund v. County of Santa Cruz (1982) 133 Cal.App.3d 800, 806. Accordingly, “[t]he consistency doctrine [is] the linchpin of California’s land use and development laws; it is the principle which infuses the concept of planned growth with the force of law.” Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors (1998) 62 Cal.App.4th 1332, 1336.

For the reasons described in Part ## of this letter, the Project is inconsistent with the Placer County General Plan and the Squaw Valley General Plan and Land Use Ordinance. Because of the Project’s glaring inconsistencies with these planning documents, approval of this Project would violate State Planning and Zoning Law and the Subdivision Map Act.

III. CONCLUSION

In sum, the EIR is legally inadequate and cannot serve as the basis for Project approval. Further, the Project is inconsistent with key planning policies for the region. For these reasons, Sierra Watch respectfully requests that the Planning Commission recommend denial of the Project.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

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Laurel L. Impett, AICP, Urban Planner
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CC:

Tahoe National Forest
Tahoe Regional Planning Authority
Army Corps of Engineers
California Office of the Attorney General
California Department of Water Resources
California Department of Natural Resources
California State Office of Historic Preservation
Department of California Highway Patrol Truckee Area
CalTrans
Lahontan Regional Water Quality Control Board
Town of Truckee
Nevada County
Squaw Valley Mutual Water Company
Squaw Valley Public Service District
North Tahoe Fire Protection District
Friends of Squaw Valley
Truckee River Watershed Council

Joanne Roubique
District Ranger Tahoe National Forest
Joanne Marchetta
Executive Director
Leah M Fisher
Senior Project Manager
California North CEQA Enforcement Division
Ed Wilson
Director of Public Affairs
Johnathan Laird
Natural Resources Secretary
Julianne Polanco
State Historic Preservation Officer
Ryan Stonebraker
Captain
Kevin Yount
Regional Planning Liaison and Intergovernmental Review
Laurie Kemper
Lahontan Regional Water Board Ombudsman
Tony Lashbrook
Town Manager
Brian Foss
Planning Director
John Johnson
President
Mike Geary
General Manager
Michael S. Schwartz
Fire Chief
Friends of Squaw Valley
Steering Committee
Lisa Wallace
Executive Director
Friends of the West Shore
Sierra Nevada Alliance
Center for Biological Diversity
The League to Save Lake Tahoe
Tahoe Area Sierra Club
Mountain Area Preservation
North Tahoe Protection Alliance
KSL Capital Partners
Squaw Valley Ski Holdings
Squaw Valley Real Estate

Exhibits:

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<tr>
<td>Exhibit 3</td>
<td>Alpine Meadows/Squaw Valley Base to Base Gondola Initial Project Application. J. Spenst.</td>
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<tr>
<td>Exhibit 5</td>
<td>USFS Notice of Proposed Action</td>
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<tr>
<td>Exhibit 20</td>
<td>CEQA Handbook, Appendix E-1 (Preparing a Health Risk Assessment for Land Use Projects). Placer County Air Pollution Control District.</td>
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<tr>
<td>Exhibit 21</td>
<td>“Announcing Nonstop Flights From Atlanta to Squaw Valley on Delta Airlines.” A. Wirth, April 29, 2016.</td>
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<td>Exhibit 23</td>
<td>California Historical Landmarks By County. California State Parks Office of Historic Preservation. <a href="http://ohp.parks.ca.gov/?page_id=21387">http://ohp.parks.ca.gov/?page_id=21387</a></td>
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