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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF PLACER

SIERRA WATCH,

Petitioner,

v.

PLACER COUNTY; PLACER COUNTY BOARD OF SUPERVISORS; and DOES 1-20,

Respondents.

SQUAW VALLEY REAL ESTATE, LLC; and DOES 21-40,

Real Parties in Interest.

Case No. SCV0038777
[*Related to Case No. SCV0038917*]

REAL PARTY'S OPPOSITION BRIEF

[California Environmental Quality Act ("CEQA"), Pub. Resources Code, § 21000 et seq.; Code Civ. Proc. § 1085]

ASSIGNED FOR ALL PURPOSES:
Hon. Michael W. Jones

Trial Date: April 26, 2018
Time: 8:30 a.m.
Dept.: 43

Petition filed: December 15, 2016

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Communities for a Better Environment v. City of Richmond
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Communities for a Better Environment v. South Coast Air Quality Management Dist.
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GLOSSARY OF ACRONYMS AND ABBREVIATIONS

Acronym / Abbreviation	Definition
AB	Assembly Bill
ADT	Average Daily Trips
Board	Placer County Board of Supervisors
CEQA	California Environmental Quality Act
CNEL	Community Noise Equivalent Level
Compact	Tahoe Regional Planning Compact
Commission	Placer County Planning Commission
County	Placer County
CTMP	Construction Traffic Management Plan
DEIR	Draft EIR
DWR	California Department of Water Resources
EIR	Environmental Impact Report
EPEP	Emergency Preparedness and Evacuation Plan
FEIR	Final EIR
GHG	Greenhouse gas
Guidelines	State CEQA Guidelines, Cal. Code Regs., title 14, § 15000 et seq.
I-80	Interstate 80
IRR	Internal rate of return
LOS	Level of service (traffic)
MM	Mitigation Measure
MMRP	Mitigation Monitoring and Reporting Program
MT CO_2e/year	Metric tons of carbon dioxide equivalent per year

OB	Sierra Watch’s Opening Brief
OVGB	Olympic Valley Groundwater Basin
Petitioner	Sierra Watch
PCAPCD	Placer County Air Pollution Control District
RDA	Reduced Intensity Alternative
RPU	Tahoe Regional Planning Agency, Regional Plan 2012 Update
RTP	Tahoe Regional Planning Agency’s Regional Transportation Plan
SR 89	State Route 89
Squaw	Real Party Squaw Valley Real Estate, LLC
SWRCB	State Water Resources Control Board
SVFD	Squaw Valley Fire Department
SVGP	Squaw Valley General Plan and Land Use Ordinance (1983)
SVPSD	Squaw Valley Public Service District
Tahoe Basin or Basin	Lands within the Lake Take watershed, and therefore subject to TRPA jurisdiction under the Compact
TART	Tahoe Area Regional Transit
TRPA	Tahoe Regional Planning Agency
Village/Project	Village at Squaw Valley Specific Plan
V/C	Volume to capacity ratio
VMT	Vehicle miles traveled

INTRODUCTION

In November 2016, after five years of planning, environmental review and hundreds of public meetings, the Placer County Board of Supervisors (Board) certified an environmental impact report (EIR) and approved the Village at Squaw Valley Specific Plan (Village or Project), modernizing development envisioned for Squaw Valley (Valley), host of the 1960 Winter Olympics. The Project reduced the number of residential units allowed in the 1983 Squaw Valley General Plan and Land Use Ordinance (SVGP) from up to 3,554 bedrooms (without a height limitation) to 1,493 bedrooms (with height limitations). The Project envisions completing the unfinished Intrawest Village, with employee housing, restoration of Squaw Creek, transportation benefits and trail head improvements. (AR 3:1741, 1784, 1:371-375, 17:9877-9878.) [1] Most development will occur on what is now an 82-acre paved parking lot. (AR 3:1743, 17:9872.) As approved, the Project retains 36.35 acres of open space, compared to 19.64 acres under the prior zoning (an increase of 85%). (AR 13:7789.) Learning from Intrawest's experience, Real Party in Interest Squaw Valley Real Estate, LLC (Squaw) included a diverse mix of land uses to ensure the long term fiscal viability of the Project. (AR 1:371-372.)

Unrelenting in its opposition, Sierra Watch (Petitioner) claims the Project will inflict damage on Lake Tahoe. But the Project proposed no development in the Tahoe Basin (Basin). Its sole impact will be from some visitors travelling into the Basin. The EIR discloses these impacts. The County imposed dozens of conditions of approval and mitigation, many aimed at traffic and transit. Squaw voluntarily agreed to pay into Tahoe Regional Planning Agency's (TRPA's) existing fee program for such impacts. Petitioner ignores all this, and argues the County had to comply with TRPA standards for projects located *within* the Basin. No court has ever embraced such a theory. Petitioner's other attacks on the EIR likewise fail. The Court should deny the Petition.

STATEMENT OF FACTS

In 1983, the County adopted the SVGP, establishing policies and planning principles to "guide development and growth within the Squaw Valley area in a positive and progressive manner." (AR 90:53030, 53021-53096.) The SVGP "envisioned development of additional lodging to implement a

[1] Throughout this brief, citations to the Administrative Record are indicated by the abbreviation "AR" followed by the volume number and page number(s), separated by a colon.

four-season destination resort base at the base of the mountain." (AR 16:9443.)

In 2011, Squaw submitted a draft outline of the Village Specific Plan. (AR 15:8826.) The Plan designates land uses, infrastructure, development standards, and implementation measures. (AR 17:9793.) The Village encompasses roughly 94 acres. (AR 3:1741.) It includes hotel, residential, and commercial uses (AR 3:1741), plus parking. (AR 13:7774.) In 2012, the County began preparing an EIR. (AR 5:2505.) Hearing from the community, Squaw changed the plan to reduce the project from 3,187 bedrooms, to 1,493 bedrooms as approved. (AR 15:8826, 78:46388, 2:1092, 1102, 1107, 13:7789, 17:9868-9869 [residential units cut from 1,542 to 850].) Squaw incorporated all but one of the Design Review Committee's recommendations into the Project. (AR 15:8860-8861.)

Petitioner opposed the Project from the start (AR 5:2646-2652), launching a publicity campaign that a former Sierra Watch employee characterized as "distorted." (See 75:44019.) On August 11, 2016, the Commission recommended approval of the Project and certification of the EIR. (AR 15:8813.) On November 15, 2016, the Board heard from opponents and supporters (AR 16:9459-17:9711), and voted four to one to certify the EIR and approve the Project. (AR 17:9775-9781.) Petitioner sued.

STANDARD OF REVIEW

The standard of review in a CEQA case — abuse of discretion — "is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence." (Pub. Resources Code, § 21168.5; *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 392 (*Laurel Heights I*).) The court "adjust[s] its scrutiny to the nature of the alleged defect, depending on whether the claim is predominantly one of improper procedure or a dispute over the facts." (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.) In light of the two-prong nature of the standard of review, the relevant standard is identified within the discussion of each of Petitioner's claims. In either event, Petitioner has the burden of proof. (*Gilroy Citizens for Responsible Planning v. City of Gilroy* (2006) 140 Cal.App.4th 911, 918-919 (*Gilroy Citizens*).) Petitioner also has the burden to show prejudice. (Pub. Resources Code, § 21005, subd. (b); *Neighbors for Smart Rail v. Exposition Metro Line Const. Auth.* (2013) 57 Cal.4th 439, 463 (*Neighbors for Smart Rail*)).

ARGUMENT

A. The EIR adequately described the Project setting and potential effects on the Basin.

Petitioner argues the "de novo" standard of review applies to its claim that the EIR contains insufficient information on the Tahoe Basin. (OB, pp. 12-15.) Not so. The issue focuses on facts: i.e. the physical characteristics of the environment in and around the Project. The Supreme Court has twice held that such claims are subject to review for substantial evidence. (*Neighbors for Smart Rail*, *supra*, 57 Cal.4th at pp. 448-449; *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 328; see also *South County Citizens for Smart Growth v. County of Nevada* (2013) 221 Cal.App.4th 316, 338 (*South County Citizens*).) *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918 (*Banning Ranch*), by contrast, involved a project located within the coastal zone and containing coastal resources that the city omitted from the EIR. (2 Cal.5th at pp. 935-939.) The city erred procedurally by omitting such "essential information" and by failing to integrate its CEQA process with permit requirements of the Coastal Commission. (*Id.* at pp. 935-936.) Here, by contrast, the Village is located outside TRPA jurisdiction, so there is no TRPA permitting process to integrate. (AR 69:40421-40422, 8:4343, 4381-4382.)

Given the Project's location outside the Basin, Petitioner's insistence that the EIR include a detailed description of Lake Tahoe is farfetched. An EIR must "include a description of the physical environmental conditions in the vicinity of the project … from both a local and regional perspective." (Guidelines, § 15125, subd. (a).) This description "shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives." (*Ibid.*; see *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 219 (*Clover Valley*); *North Coast Rivers Alliance v. Marin Mun. Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, 644.) Though Petitioner hints otherwise (OB, p. 13), the Project is not within the Basin and thus not of "regional or area wide significance" as a result of its proximity to Tahoe. (Guidelines, § 15206, subd. (b)(4)(A).)

Petitioner criticizes the EIR for not discussing the status of TRPA's plans to meet its environmental goals. (OB, pp. 14-15.) But TRPA's plans are inapplicable to the Project under Guidelines section 15125. A plan is "'applicable'" when "'it has been adopted and the project is subject to it[.]'" (*Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 544; *Chaparral Greens v. City of*

Chula Vista (1996) 50 Cal.App.4th 1134, 1145, fn. 7.) Here, TRPA's plans are not "applicable" because the Village is located outside the Basin and Squaw does not need a permit from TRPA. (AR 8:4343.) Petitioner also states the EIR contained "no information" on existing conditions in the Tahoe Basin. (OB, p. 14.) Not so. The EIR described air quality based on data from three nearby monitoring stations, two of them in the Basin. (AR 4:2043-2047.) It noted the watershed where the Village is located, described as "the approximately eight square mile Squaw Creek watershed, a tributary to the middle reach of the Truckee River (*downstream of Lake Tahoe*)." (AR 4:2126, emphasis added; see AR 4:2126-2153.) The EIR described local and regional visual resources. (AR 4:1928-1957.) The EIR did not describe visual resources in the Tahoe Basin because the site is not visible from the Basin. (AR 8:4394; see AR 8:4382 [EIR focused on resource areas where impacts may occur], 8:4393 [same].)

Petitioner argues the EIR does not analyze the impacts of Project-related traffic in the Basin. (OB, pp. 15-16.) Again, not so. The Village will generate traffic. Some will venture into the Basin. The EIR included information on local and regional traffic, including in the Tahoe Basin. (AR 4:1979-1980 [SR 89 / SR 28 intersection, and roads east and south of that intersection].) [2] Comments on the Draft EIR (DEIR) claimed the Project would cause increased visitation to the region, which could hinder TRPA's efforts to meet its environmental goals. (AR 8:4303, 4364-4373, 4387-4391, 4610.) The Final EIR (FEIR) responded. (AR 8:4343, 4380-4386, 4393-4394, 4738.) Where comments asked for information on basin-wide VMT, the County provided it. (AR 7:4016-4017.)

The EIR's study area included corridors within the Tahoe Basin where visitors to the Village will likely travel (AR 8:4380-4381), and uses TRPA's standards to determine whether traffic there will be "significant." (AR 4:2006-2007.) The EIR also estimated VMT in order to calculate air pollutant and GHG emissions. (AR 4:2050, 2054, 2057-2059, 2289, 6:3361-3362, 3417-3419, 3432-3434.) VMT was

[2] The cases cited by Petitioner all involve resources directly threatened by proposed projects, where the EIR provided no description of those resources. (*Banning Ranch*, *supra*, 2 Cal.5th at pp. 935-936; *Cadiz Land Co., Inc. v. Rail Cycle, L.P.* (2000) 83 Cal.App.4th 74, 91-93 (*Cadiz*) [EIR omitted size of aquifer located beneath proposed landfill]; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1122-1123 [EIR mischaracterized agricultural operations in vicinity of proposed dam]; *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 729 [EIR ignored on-site wetlands].) Here, by contrast, the EIR addressed the one area in which the Project may affect the Tahoe Basin: traffic. (AR 8:4380-4381.)

not relevant to determining whether traffic impacts would be significant because the analysis focused on level of service (LOS) and potential for delay, rather than trip length. (AR 4:2004-2009, 8:4393, 69:40421-40422, 2:611 [explaining VMT versus LOS]; *Sierra Club v. City of Orange*, *supra*, 163 Cal.App.4th at p. 544 [deference to city in metrics used in traffic analysis].)

Comments asked the County to address in-Basin VMT. (AR 8:4370, 4389.) The County estimated that, on a peak day, the Village would increase VMT by 23,842. (AR 7:4016-4017, 7:4132, 8:4382-4383, 11:6532-6549 [appendix to FEIR].) [3] Petitioner says these responses are "dismissive" and "rote" (OB, pp. 16-17), but the County did just what the comments asked. [4] Petitioner argues the County had no choice but to find the increase significant. (OB, p. 15.) TRPA, however, "has not adopted a project-specific VMT threshold." (AR 2:614.) As the EIR explains, TRPA applies its "VMT threshold" basin-wide, as a "cap" on the total amount of traffic that can occur in the Basin, while ensuring TRPA remains on track to meet restoration goals. The EIR summarized existing basin-wide VMT, added the project-VMT, and compared the sum to the cap. To wit:

Existing (baseline) + Village Project (pre mitigation) = Existing + Village
1,937,070 VMT + 23,843 VMT = 1,960,913 VMT

This number is below TRPAs basin-wide cap of 2,030,938 VMT. (AR 2:616, 611-616, 7:4016, 85:49690, 85:49731-49732.) This remains true even if other proposed projects are added atop this total. (AR 2:615-616.) The EIR also summarized how TRPA has applied the VMT threshold to projects located within its jurisdiction; none of those analyses suggested that the Village's contribution to basin-wide VMT is significant. (AR 7:4017.) Indeed, all of the data in the record points to the same conclusion: the Village will neither cause nor contribute to exceeding TRPA's basin-wide cap on VMT.

Petitioner cites TRPA's project-level threshold of 200 average daily trips (ADT) for projects subject to TRPA's jurisdiction, arguing the County had to apply the same threshold. (OB, p. 16.) This

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[3] TRPA opined the Village would contribute 28,800 to 48,700 additional VMT/day to the Basin. (AR 7:4129.) The figure overestimated Project-related VMT. (AR 7:7:4132.) Petitioner believes the EIR's estimate is low (OB, p. 15, fn. 4), but does not explain why. The County is entitled to deference. (*City of Hayward v. Bd. of Trustees of Cal. State Univ.* (2015) 242 Cal.App.4th 833, 839 (*City of Hayward*).)

[4] Petitioner insinuates that this analysis is entitled to less weight because it appears in the FEIR, rather than the Draft. This insinuation is wrong. (*Cleveland National Forest Foundation v. San Diego Assn. of Governments* (2017) 3 Cal.5th 497, 516-517 (*CNFF*) [responses to comments are part of EIR]; *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1273 (*Defend the Bay*) [same].)

argument fails both legally and factually. The “significance thresholds” adopted by one agency for a particular purpose are not binding on another. (AR 69:40421-40422.) [5] An agency has discretion to determine what standard to use to measure an impact’s significance. (Guidelines, § 15064, subd. (b); *Sierra Club v. City of Orange*, *supra*, 163 Cal.App.4th at p. 544 [city not required to use county’s preferred methodology]; *Mount Shasta Bioregional Ecology Center v County of Siskiyou* (2012) 210 Cal.App.4th 184, 212 [noise thresholds]; *National Parks & Conservation Assn. v. County of Riverside* (1999) 71 Cal.App.4th 1341, 1358-1359 (*National Parks*) [same].) Moreover, Petitioner misleadingly equates TRPA’s carrying capacity thresholds with “thresholds of significance” under CEQA. TRPA adopted its thresholds in 1982 to restore conditions in the Basin, as required by the Tahoe Regional Planning Compact (Compact). The Compact directs TRPA to “improve environmental quality . . . by commanding setting and attaining environmental thresholds.” (*League to Save Lake Tahoe v. Tahoe Regional Planning Agency*, 739 F.Supp.2d 1260, 1295 (E.D. Cal. 2010) [distinguishing CEQA thresholds from TRPA thresholds], *affirmed in part*, *vacated in part*, *remanded*, 469 Fed.Appx. 621 (9th Cir. 2012).) As the EIR explains, TRPA’s carrying capacity thresholds are aimed not merely at avoiding a project’s impacts, but at restoring Lake Tahoe. (AR 69:40421-40422, 2:611-612; see AR 85:49683-49740.) CEQA, by contrast, focuses on the impacts of a specific project, not on restoring existing conditions. (*Citizens for East Shore Parks v. California State Lands Com.* (2011) 202 Cal.App.4th 549, 562, 565; *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, 1453.) Thus, Petitioner’s theory amounts to the claim that the County must use a TRPA threshold adopted for a different purpose under a different, Federal statute. No court has embraced such a theory.

Petitioner’s argument also ignores the facts. TRPA uses the 200-ADT threshold to identify projects that must pay TRPA’s “Traffic and Air Quality Mitigation” fee. If a project pays this fee, then TRPA finds that the project’s impacts have been mitigated. (AR 7:4017, 4129; *Sierra Club v. Tahoe Regional Planning Agency* (2013) 916 F.Supp.2d 1098, 1138-1142 [TRPA adequate mitigation for in-basin VMT].) In this case, for the portion of traffic that will occur in the Basin, *the Village Project is paying this fee*. (AR 36:21005-21020.) Squaw asked the County to amend the development agreement

[5] Due to what appears to be a copying error, only a fragment of this discussion appears at AR 7:4033. The full discussion appears at AR 69:40421-40422.

to add "section 3.19," whereby Squaw agreed to pay $440,862 under TRPA's program. Squaw made the request after the Attorney General expressed concern regarding in-basin impacts. (AR 36:21006-21008, 42:24759-43:24810.) The County's consultant calculated the amount of the fee. (AR 36:21010-21013.) Squaw agreed to pay. (AR 16:9450-9452.) County staff described the request at the Board's hearing (AR 16:9427-9429), and the Board discussed it at length. (AR 16:9452-9457.) Petitioner was present at the hearing. (AR 16:9563-9565.) Yet, Petitioner's brief says not a word about it.

Petitioner cites cases holding that an agency cannot wield significance thresholds so as to "obscure rather than elucidate impacts of concern." (OB, p. 17.) These cases are inapposite. In *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344 (*Berkeley Jets*), the agency used a time-weighted metric to determine the significance of aircraft noise, and rejected requests to examine single-event noise from night-time overflights and their potential for sleep disruptions. (*Id*. at pp. 1380-1382.) In *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099 (*Amador Waterways*), the EIR contained a "bare conclusion" that the project would cause insignificant reductions in stream flows. Elsewhere, the court upheld the EIR's brief statement explaining why the reduction in flows would not harm riparian habitat. (*Id*. at pp. 1111-1113.) Here, the County addressed all potential impacts caused by project-related traffic in the Basin. (E.g. AR 4:1979-2042 [traffic], 4:2043-2066 [air quality].) The County first acknowledged that TRPA monitors basin-wide VMT, both to regulate traffic and because VMT may frustrate TRPA's ability to fulfill its goals, and next explained why the Village would not hinder these goals. (AR 8:4382-4383, 2:611-616.) Petitioner may not agree, but it cannot wish this analysis out of existence.

Petitioner suggests the County ignored evidence of a link between VMT and basin impacts, citing *CNFF*, *supra*, 3 Cal.5th 497. There, a scientific consensus existed regarding the pace and magnitude of GHG emission reductions needed to stabilize the climate as important information for agencies to consider. (*Id*. at p. 515.) Here, the County acknowledged that TRPA has long posited a link between VMT, air quality, and lake clarity. (AR 2:611-615.) But even TRPA recognizes the link is inexact; the VMT threshold is "a surrogate" for traffic congestion, air quality and lake clarity (AR 2:612), "but a direct link between a specific number of VMT and attainment of Lake clarity goals has not been established." (AR 2:613.) Rather than regulate VMT, TRPA's goals can also be addressed by,

for example, reducing tailpipe emissions and implementing basin-wide plans to control run-off. (AR 2:612-615; see AR 85:49731-49732.) Petitioner submitted no data supporting its claim that Project VMT would harm the lake. (AR 2:619-624, 2:681-686, 2:748-750.) Petitioner also argues the County erred in citing adopted plans to restore lake clarity. (OB, p. 18.) Wrong again. (*Cadiz*, *supra*, 83 Cal.App.4th at pp. 106-109 [analysis of project could assume implementation of adopted regulations].)

Although TRPA was concerned about traffic, its comments focused on bolstering public transit. (AR 7:4128-4131.) The County explained how the Village would support that effort. (AR 7:4017, 4133-4134, 2:1041-1042.) The County and TRPA issued a joint statement of principles prioritizing regional transit and requiring "near-Basin developments" to contribute (AR 89:52273-52274), leading to the Board's April 2016 approval of a Tahoe Area Regional Transit (TART) "Systems Plan Update." (AR 39:22736-22824.) Petitioner dismisses mitigation requiring Squaw to permanently fund transit (OB, p. 17), but TRPA endorsed this very approach. (AR 89:52273-52274.)

Finally, Petitioner argues the Court should ignore a report prepared by the County to address comments submitted *after* release of the FEIR. (OB, p. 18; AR 2:678-686, 706-707, 748-750.) The County had no obligation to provide written responses to late comments (*Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1110-1111 (*Gray*); that the County did respond is hardly cause for criticism, especially when the responses elaborate on information already in the EIR. (AR 7:4016-4017, 4132, 8:4382-4383, 11:6532-6549.) There is nothing wrong with relying on this further analysis to confirm the less-than-significant conclusion regarding in-Basin VMT. (Pub. Resources Code, § 21081.5; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 568-570 (*Goleta*).) [6] The responses, moreover, were adequate because the letters submitted at the 11th hour on November

[6] Petitioner claims all information must be in the EIR to count (OB, p. 18) but neither case cited supports this claim. In *Laurel Heights I*, *supra*, 47 Cal.3d at pp. 400-406, the EIR was inadequate because it omitted *any* analysis of alternatives to the project; the Court held the agency could not cite to internal memoranda to plug this gap. In *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, 265-267, the city prepared an "addendum" with information required by the Guidelines *after* certifying the EIR and approving the project. In this case, by contrast, the information was already in the EIR and staff report prepared prior to EIR certification and project approval. Courts uniformly reject efforts to pretend that such analyses do not exist. (*Beverly Hills Unified School Dist. v. Los Angeles County Metropolitan Trans. Auth.* (2015) 241 Cal.App.4th 627, 664-666; *Clover Valley*, *supra*, 197 Cal.App.4th at p. 222; *Western Placer Citizens for an Agricultural and Rural Environment v. County of Placer* (2006) 144 Cal.App.4th 890, 904-906 (*WPCARE*).)

14, 2016, parroted the very same issues (AR 38:21995-21996, 22058-22060) to which the County had already responded. (AR 2:611-616, 634, 834-835, 7:4016-4017, 69:40421-40422.)

B. The EIR provides ample information regarding wildland fire risks and evacuations.

The Board found that the Project would not interfere with adopted emergency evacuation plans, and that people or structures would not be exposed to a significant risk of loss from wildland fires. (AR 1:354-356, 3:1597-1599.) Petitioner attacks these findings. (OB, pp. 19-22.) "Disagreements regarding the adequacy of an EIR's impact analysis will be resolved in favor of the lead agency if any substantial evidence supports the lead agency's determination. [Citation.]" (*Clover Valley*, *supra*, 197 Cal.App.4th at p. 243.) "[T]hese types of challenges involve factual questions." (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 898 (*Oakland Heritage*); *Tracy First v. City of Tracy* (2009) 177 Cal.App.4th 912, 934-935 (*Tracy First*) ["substantial evidence" test applies to challenge to agency's conclusion that impact will not be significant].) Petitioner bears the burden of demonstrating that no substantial evidence supports the Board's findings. (*East Sacramento Partnerships for a Livable City v. City of Sacramento* (2016) 5 Cal.App.5th 281, 299 (*East Sacramento Partnerships*).)

CEQA's "environmental checklist form," which agencies may use in preparing an EIR (Guidelines, Appendix G), directs the agency to consider whether the project will "[i]mpair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan," or "[e]xpose 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." (*Id*., ¶¶ VII(g), (h), § 15126.2, subd. (a) [EIR must address "health and safety problems caused by the [project's] physical changes"].) The EIR focused on these issues. (AR 5:2580-2583, 2741; 4:2268.) Use of these thresholds was within the County's discretion. (*City of Hayward*, *supra*, 242 Cal.App.4th at p. 841; *Oakland Heritage*, *supra*, 195 Cal.App.4th at p. 897.)

Most of Squaw Valley, including the Project site, is a "very high" Fire Hazard Severity Zone. (AR 4:2257-2259.) The risk is not, however, what this designation suggests. (See *Clews Land and Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161, 194-195 (*Clews*) [site in severe fire hazard zone, but record did not contain evidence that project would interfere with evacuation plans].) As SVFD Fire Chief Pete Bansen stated, "Squaw Valley is pretty favorable in terms of fuels and

topography and the unlikely host event for a large wildland fire." (AR 17:9832.) Most of the site consists of buildings and paved parking lots. Surrounding terrain includes cleared ski runs, healthy forests, and meadow. (AR 3:1743, 17:9832-9833, 18:10308-10309, 21:12176-12179, 21:12187.) Although 2014's King Fire approached SVFD's service area, that experience showed the system works: an event was canceled, and SVFD's communications system functioned well. (AR 7:4013-4014, 21:12184-12185.)

The EIR acknowledged that access is limited via Squaw Valley Road, which connects to SR 89. (AR 4:2220, 4:2274.) [7] SVFD's "Wildland Fire Evacuation Plan" identifies evacuation routes and communications protocols, provides guidance to reduce risk, and calls for using the parking lot to shelter in place if evacuation routes are blocked. (AR 4:2268, 2274, 7:3860-3863.) The Village fits this plan: the same evacuation routes will be used; and Village parking structures will continue to serve as a place of refuge. (AR 3:1766-1767, 4:2274; 2:1152-1153.) Because road closures during construction could hinder evacuation (AR 4:2274), the EIR recommended a Construction Traffic Management Plan (CTMP). (AR 4:2274; see AR 4:2042.) The Board adopted this measure. (AR 2:1042-1043.) The EIR also noted that the Village would bring additional people to the area. The EIR proposed MM 15-6a, which requires compliance with CalFire standards regarding defensible space, access and fire flows. (AR 4:2275-2276; see AR 4:2267-2268 ["defensible space" required; enforced by SVFD inspections].) SVFD commissioned a study (Citygate study) to determine whether there was adequate capacity to serve the Village. Citygate analyzed SVFD's capacity to respond given the "unique characteristics, topography, weather, and population present and proposed in the Olympic Valley." (AR 28:16187; see AR 110:65018-65022.) Citygate found that Village access is good, except during inclement winter weather when wildfire risk does not exist. (AR 28:16194.) Citygate recommended additional funding so that SVFD could add staff and build a new sub-station at the west end of the valley, close to the

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[7] Petitioner claims Squaw Valley Road and SR 89 "operate at gridlock at peak periods." (OB, p. 19.) Peak congestion generally occurs in winter with skier traffic and inclement weather. (AR 4:2030-2034.) Traffic levels are lower in summer and fall. (AR 4:2041.) The traffic analysis acknowledged that the Project will add to existing peak conditions. (AR 4:2030-2039.) Petitioner also equates normal traffic operations with those during an evacuation. (OB, p. 21.) In an emergency, however, incident commanders assume control of roadways. (AR 21:12233-12234; 18:10298.)

Village. (AR 28:16196-16199.) The EIR followed these recommendations. (AR 3:1766-1767, 4:2219-2220, 2252-2253, 2274-2276.) The Board adopted them. (AR 2:1061-1062.) Petitioner's counsel submitted comments demanding further analysis. (AR 8:4649-4650, 4692-4696.) The County responded (AR 7:4011-4014, 8:4795-4798), noting that the CTMP, monitored and enforced by the County, would ensure that emergency access would be maintained during construction. (AR 7:4011.) Petitioner remains unsatisfied, but the courts uphold such traffic management plans as permissible mitigation. (*City of Hayward*, *supra*, 242 Cal.App.4th at pp. 851-855 [traffic demand management plan upheld]; *Neighbors for Smart Rail*, *supra*, 57 Cal.4th at pp. 465-466.) The CTMP's requirement is unambiguous: "preserv[e] [] emergency vehicle access." (AR 2:1042-1043; see *Clover Valley*, *supra*, 197 Cal.App.4th at pp. 236-237 [measure prohibiting "take" of protected species upheld].) The record shows the adopted measures will, in fact, be carried out. (AR 2:661.) [8]

A consultant estimated the time required to evacuate all of Squaw Valley. (AR 18:10297-10307.) Under existing conditions, 2.9 hours would be needed to evacuate the entire Valley; with the Project, the time would be 5.0 hours; with worst-worst-worst case conditions (full build-out, full occupancy throughout valley, summer special event), the time would be 10.7 hours. (AR 18:10301; 18:10302-10307.) Emergency personnel would account for evacuation times when deciding whether and when to order an evacuation. (AR 7:4013-4014.) In addition, the new substation at the valley's west end would address access issues, and the Village would continue to allow residents and visitors to shelter in place if necessary. (AR 7:4011-4012, 18:10310.) Petitioner claims that sheltering in place is "untenable." (OB, p. 21.) Fire experts disagree; as Fire Chief Bansen stated, sheltering in place is a "very, very favorable way of approaching the situation [.]" (AR 17:9834, 36:21145 ["shelter in place" is a "common tactic"].) The FEIR also required preparation of an Emergency Preparedness and Evacuation Plan (EPEP), listed the information to be included in the EPEP, and noted that the EPEP would integrate with existing County and SVFD evacuation plans. (AR 7:3969-3970, 4012-4013; AR

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[8] Petitioner also expresses concern about propane storage. (OB, p. 19.) The Valley is already served by propane. (AR 3:1766.) Existing propane tanks are inspected. (AR 21:12196.) So would the new facility. (AR 8:4797, 3:1766, 1753.) Compliance with regulations is ample basis for finding impacts insignificant. (*Oakland Heritage*, *supra*, 195 Cal.App.4th at pp. 903-904; *Tracy First*, *supra*, 177 Cal.App.4th at pp. 933-934.)

27:15339-15362].) Petitioner suggests this analysis does not count because it appeared in the FEIR, not in the Draft. Wrong again. (*CNFF*, *supra*, 3 Cal.5th at pp. 516-517.)

Petitioner emphasizes a letter from Fire Chief Bansen dated May 6, 2016, *after* release of the FEIR, stating that the FEIR glossed over the unpredictability of wildfires and the difficulty of evacuations, and that maintaining access along Squaw Valley Road has been difficult. (AR 2:657-660.) Because Chief Bansen's letter post-dated the FEIR, the County did not need to respond (*Gilroy Citizens*, *supra*, 140 Cal.App.4th at p. 924 fn. 10), but did anyway, noting that Squaw had prepared the EPEP, and further consulted with the SVFD regarding increased staffing and equipment. (AR 2:661-662.) Petitioner characterizes these efforts as "last-minute." (OB, p. 21.) False. Squaw released the EPEP on June 28, 2016, long before the Commission and Board hearings. (AR 21:12168.)

With a gift for understatement, Petitioner concedes that the EPEP is "helpful." (OB, p. 21.) It is. The EPEP provides a comprehensive inventory of existing conditions, fire-related threats, applicable plans and regulations, mitigation measures, defensible space and building standards, communication and training requirements, and evacuation plans, including "shelter in place" if evacuation routes are blocked. (AR 21:12168-12303, 17:9823-9826 [EPEP described to Planning Commission].) Petitioner claims the EPEP is irrelevant because it was not in the EIR. (OB, pp. 21-22.) Not so. The EPEP elaborates on information that *was* in the EIR. (AR 4:2219-2220, 2252-2254, 2257-2259, 2267-2268, 2274-2276, 7:3969-3970, 4011-4014, 8:4795-4797.) In determining whether substantial evidence supports a lead agency's conclusions, courts consider information in the record *as a whole*. (*Clover Valley*, *supra*, 197 Cal.App.4th at p. 222; *Goleta*, *supra*, 52 Cal.3d at pp. 568-570.) In *Laurel Heights I*, *supra*, by contrast, the EIR "contained no analysis of any alternative locations" for the project, even though CEQA expressly requires such an analysis, and the agency could not refer to its own internal planning discussions to plug the gap. (47 Cal.3d at pp. 404-405.) Similarly, in *City of Maywood v. Los Angeles Unif. School Dist.* (2012) 208 Cal.App.4th 362, 395, the record contained "*no evidence* that the [district] considered or otherwise addressed" the city's concerns about pedestrian safety at a proposed high school. (Italics added.) Here, the EIR addressed fire risk and evacuation; the EPEP and supplemental responses elaborated further; and all of this information was publicly available and discussed prior to project approval. (AR 16:9417-9419 [description of EPEP], 16:9344-9361 [staff

presentation]; see *City of Maywood*, *supra*, 208 Cal.App.4th at pp. 423-424 [expert opinion supported conclusion regarding rail safety].) Nor was the EIR required to speculate about what would occur if the EPEP was not carried out. (*Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, 1064 (*Treasure Island*).)

Petitioner asserts that any increase in fire risk or evacuation time is necessarily "significant" under CEQA. But "[a] less than significant impact does not mean no impact at all." (*Oakland Heritage*, *supra*, 195 Cal.App.4th at p. 899; see *Clover Valley*, *supra*, 197 Cal.App.4th at p. 243; *National Parks*, *supra*, 71 Cal.App.4th at p. 1359 [standards for assessing impacts of a project allow for a finding of an insignificant degree of impact, not necessarily a zero impact]; *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal.App.4th 889, 912-916 (*Long Beach v. LAUSD*) [consultants' reports supported conclusion of no significant hazards].)

The County acknowledged that wildland fires and mass evacuations are not "risk free." (AR 16:9356.) Expert analysis supports the County's conclusion that the risk is not significant. As Chief Bansen testified at the Planning Commission hearing, "a mass evacuation of Squaw Valley is a very, very, very unlikely event" (AR 17:9833), and "the evacuation and emergency preparedness plan that has been developed for the project is very good." (AR 17:9835, 16:9306-9307 [peer review endorsing EPEP]; 36:21140-21151 [same, plus recommendations incorporated into plan].) Thus, the record shows that Squaw collaborated with Chief Bansen and other experts in preparing the EPEP, which the County approved (AR 2:1067), and in that process made the Project better. In short, "[t]his is a case where CEQA worked." (*Clover Valley*, *supra*, 197 Cal.App.4th at p. 206.)

C. The County's analysis and mitigation for traffic and transit impacts complied with CEQA.

Petitioner concedes that the substantial evidence test governs its claims relating to traffic and public transit. (OB, pp. 13, 22; *Laurel Heights I*, *supra*, 47 Cal.3d at pp. 407-408; *Neighbors for Smart Rail*, *supra*, 57 Cal.4th at p. 466; *Clover Valley*, *supra*, 197 Cal.App.4th at p. 243.) Petitioner must show that no substantial evidence supports the Board's findings. (*California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 626 (*CNPS*).) It cannot.

Petitioner claims that Squaw cannot be trusted to mitigate the area's "notoriously bad traffic." (OB, p. 22.) Wrong. The traffic mitigation measures in the EIR are state-of-the-art and will be enforced

by the County. (See AR 4:2030-2042.) But even with the Village, traffic would not be as bad as Petitioner alleges. (See AR 17:9884, 18:10279-10280, 10407.) Petitioner claims "inadequate parking can cause serious traffic problems" (OB, p. 22), citing its own traffic consultant who conceded that "parking is technically not a CEQA issue[.]" (AR 8:4588; see also *Walters v. City of Redondo Beach* (2016) 1 Cal.App.5th 809, 825; *San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 697 (*SFUDP*).) The EIR nevertheless addressed the secondary effects (including traffic) of parking supply. (AR 4:1985, 2012-2015 [Village not expected to increase day skiers], 2030-2032, 7:4014-4015 [hotel/condo parking would be private; parking management for public parking], 11:6065.) Petitioner also cites Chief Bansen's comments made before completion of the EPEP as evidence of the County's alleged inability to control parking demand. (OB, pp. 22-23; AR 11:6052-6054, 2:657-661.) Petitioner again ignores Chief Bansen's later comments expressing satisfaction with the EPEP. (AR 17:9830, 9835, 2:661.) Further, the County had discretion to weigh his comments and respond accordingly. (AR 2:657-658, 11:6053; see *Long Beach v. LAUSD*, *supra*, 176 Cal.App.4th at p. 917 [calling parking "scarce" without facts is not substantial evidence].) Elsewhere the record showed that "overall" Squaw "has done an effective job" managing traffic and parking. (AR 73:42836, 4:1986, 8:4590, 18:10279-10280, 10405-10408.)

Petitioner cites *Laurel Heights I* asserting Squaw cannot be trusted, but that case actually supports the adequacy of the County's adopted mitigation. There, the university's past mismanagement of hazardous materials was not evidence that such problems would continue; thus, the EIR could "be fairly read as a firm commitment" by the university to comply with the sound practices detailed in the EIR. (47 Cal.3d at p. 420.) This case is no different. Moreover, the County – not Squaw – will monitor implementation of parking management plans through the MMRP (AR 2:661, 1041-1042; see Pub. Resources Code, § 21081.6, subd. (a)), a fact that Petitioner ignores.

1. The EIR's traffic mitigation and responses to comments were adequate.

The County already requires Squaw to operate a traffic management program (TMP) through a 1998 agreement. (AR 4:1985-1986, 2031 [TMP]; see *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214, 246 (*CBD v. CDFW*) [prior similar measure supports future compliance].) This "is consistent with the approach taken in numerous cases with judicial

approval." (*City of Hayward*, *supra*, 242 Cal.App.4th at p. 855.) Along with the TMP, Mitigation Measure (MM) 9-1a requires development of "a predictive model" which would enable the TMP to be more efficient. (AR 7:4019, 8:4600.) While the 1998 TMP focused only on afternoon traffic, the TMP in MM 9-1a, and included in MM 9-2a through 9-2d, also address morning traffic (AR 11:6056, 4:2031-2033), and improves "both existing and project traffic." (AR 8:4259.)

Although Petitioner argues otherwise (OB, p. 23), the EIR was not required to prove that the proposed mitigation measures would dissuade travelers from visiting on peak days. An EIR is "simply required to 'describe feasible measures which could minimize significant adverse impacts.'" (*SFUDP*, *supra*, 102 Cal.App.4th at p. 696, quoting Guidelines, § 15126.4.) The adoption of similar measures elsewhere is evidence that MM 9-1b "is a common and reasonable mitigation measure." (*Rominger v. County of Colusa* (2014) 229 Cal.App.4th 690, 728 (*Rominger*); AR 2:843, 4:2032.) The aim of the measure is to encourage people to stay at the Village and use its amenities rather than depart when roads are congested. (AR 8:4259, 4:2031-2032.) The EIR's analysis and mitigation is adequate.

Contrary to Petitioner's claim, the FEIR reflects good faith responses to comments on traffic concerns. (Pub. Resources Code, § 21091, subd. (d)(2)(B); Guidelines, § 15088.) Such responses are reviewed for abuse of discretion. (*Bay Area Citizens v. Association of Bay Area Gov.* (2016) 248 Cal.App.4th 966, 1020; *City of Irvine v. County of Orange* (2015) 238 Cal.App.4th 526, 550.) Here, where comments proposed mitigation measures, the County explained why they were duplicative, unnecessary, or infeasible. (AR 2:844, 8:4600-4601, 4764-4765, 2:988-989 [infeasibility of charter bus travel].) Elsewhere, the County agreed with the comment and made revisions. (See AR 7:3951.) These responses sufficed. (*Santa Clarita Organization for Planning the Environment v. City of Santa Clarita* (2011) 197 Cal.App.4th 1042, 1054-1059 (*SCOPE*) [no need to respond in detail to every proposal].)

2. The EIR's transit analysis and responses to comments were adequate.

Petitioner complains the EIR contains insufficient analysis of transit impacts. (OB, pp. 24-25.) The EIR describes existing transit services, including ridership data focusing on the North Shore area where most riders originate. (AR 4:1999-2002, 2:844, 7:4018.) The analysis includes survey data (for summer and winter) depicting the transportation choices of employees, resort guests, and skiers. (AR 4:1994-1998.) The Project's only potentially significant contribution would be from Village employees

in the winter, mostly from the North Shore. (*Ibid*; AR 4:2014-2015, 2040 [estimating 30 additional TART riders during peak winter conditions].) Because TART service is already near capacity on peak winter ski days, this impact was found to be potentially significant and the EIR suggested mitigation. (AR 4:2040-2041.) Petitioner cites *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 89, but in that case the EIR for a major oil refinery retrofit "completely failed to properly establish, analyze and consider an environmental baseline." (*Id*. at p. 89.) Here, the EIR provided information on baseline transit conditions, focusing on peak seasonal usage. (AR 4:1994-2002, 2040-2041, 7:4018-4019.) That sufficed. (*Clover Valley*, *supra*, 197 Cal.App.4th at pp. 245-247.)

MM 9-7a requires Squaw to fund TART's expanded transit service. (AR 4:2041, 2:1041-1042 [MMRP].) Payment of fair-share fees is a reasonable plan for mitigation under CEQA. (*Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 818; *Save Our Peninsula Com. v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 136-141.) The EIR declined to speculate on how TART will expand service. (AR 2:1041-1042, 4:2041, 7:4018.) Once TART decides how to expand its services to meet additional demand, the County will require Squaw to pay its fair share based on an Engineer's Report. (AR 2:1041-1042.) Petitioner argues this approach violates CEQA. (OB, p. 25.) Not so. The only remaining question is the exact amount of funding Squaw will be required to contribute. (AR 4:2041, 2:1041-1042, 8:4385.) The County has committed itself to mitigating transit impacts of the Project (see *City of Hayward*, *supra*, 242 Cal.App.4th at p. 854), and the EIR "lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan." (*Defend the Bay*, *supra*, 119 Cal.App.4th at p. 1275; AR 4:2041 [including longer hours and/or different routes], 7:4018 [added buses during peak periods], 8:4385 [commitment to meet TART performance metrics], 18:10407 [added buses for winter peak-hours].)

Preserve Wild Santee v. City of Santee (2012) 210 Cal.App.4th 260 (*Preserve Santee*) is distinguishable. There, the city improperly deferred mitigation by relying on "an unformulated plan's eventual directives" to protect a listed butterfly and the preserve manager's "discretion to implement the plan." (*CBD v. CDFW*, *supra*, 234 Cal.App.4th at p. 247.) Neither occurred here. The Engineer's Report determines the fair share of funding, not how TART uses it. (AR 2:1041-1042, 7:4018, 8:4385.) The "discretion to implement" expanded service lies with TART, and the adequacy of the Engineer's

Report lies with the County, not Squaw. (*Ibid*.) This approach is proper. (Pub. Resources Code, § 21082.1, subd. (b); *Save Panoche Valley v. San Benito County* (2013) 217 Cal.App.4th 503, 525.)

The FEIR's responses were adequate. *SCOPE*, *supra*, is on point. There, a letter listed 50+ proposed GHG mitigation measures. The project already incorporated several of the listed measures. Petitioner argued the city had to consider each measure. The court disagreed, finding the city's responses showed good faith. (197 Cal.App.4th at pp. 1054-1059; see *San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 15-16.) Here, Petitioner and others submitted comments after publication of the FEIR, and the County responded. (AR 2:844, 7:4018, 8:4764.) Unlike *Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 616 (*Flanders Foundation*), where the city "provided no response whatsoever," the County's responses sufficed. (*Clover Valley*, *supra*, 197 Cal.App.4th at p. 245 [no need to conduct every requested study].)

D. Substantial evidence supported the County's decision not to recirculate the DEIR.

Petitioner argues the County violated CEQA by not recirculating the DEIR. (OB, pp. 26-28.) The substantial evidence standard applies. (*Laurel Heights Improvement Assn. v. Regents of the University of Cal.* (1993) 6 Cal.4th 1112, 1135 (*Laurel Heights II*); *Treasure Island*, *supra*, 227 Cal.App.4th at p. 1063 [deference to agency].) Petitioner claims recirculation was required because the FEIR introduced new significance thresholds and "entirely new conclusions." (OB, p. 26.) Neither claim is true. Recirculation is required where "significant new information" is added to the EIR after close of public comment but prior to certification. (Pub. Resources Code, § 21092.1; Guidelines, § 15088.5.) "New information" is "significant" if "the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect … that the project's proponents have declined to implement." (Guidelines, § 15088.5, subd. (a).) This is "not intend[ed] to promote endless rounds of revision and recirculation of EIRs." (*Laurel Heights II*, *supra*, 6 Cal.4th at p. 1132.) Instead, recirculation is "'an exception, rather than the general rule.'" (*South County Citizens*, *supra*, 221 Cal.App.4th at p. 328.)

Here, the revised GHG analysis (AR 7:3970-3980) did not trigger the duty to recirculate. (AR 7:4088.) The DEIR measured the significance of GHG emissions using thresholds recommended by the

Placer County Air Pollution Control District (PCAPCD). (AR 4:2286, 2291.) Emissions above 1,100 MT CO_2e/year were significant. (AR 4:2293, 2295.) An efficiency analysis, based on the California Air Resources Board's "Scoping Plan," was also used to determine whether the Village conflicted with Assembly Bill (AB) 32. (*Ibid*.) But the DEIR recognized that the efficiency analysis alone—based on a hypothetical 2020 full buildout—was "unrealistic," and analyzed GHG significance beyond 2020, when most buildout is expected. (AR 4:2291, 2293-2295.) The EIR did not, however, base its significance conclusions on this efficiency metric. (AR 4:2295 [impact is significant because project would generate substantial GHG emissions, and may not be consistent with future GHG reduction targets].)

After DEIR was published, the Supreme Court in *Center for Biological Diversity v. California Department of Fish and Wildlife* (2015) 62 Cal.4th 204 (*Newhall Ranch*) held that the numeric threshold – 1,100 MT CO_2e/year – was fine (*id*. at pp. 230-231), but an efficiency analysis requires an evidentiary basis to translate the Scoping Plan's statewide goals into a target applicable to a specific project. (*Id*. at pp. 225-229.) Following *Newhall Ranch*, the FEIR recognized that the Scoping Plan did not provide the information necessary to forge an evidentiary link to GHG emissions from the Village. (AR 7:3972, 3974, 4083.) But "[t]he DEIR's significance conclusions remain unchanged." (AR 7:4083, 2:844 ["both concluded that operation impacts of the project would be significant…"], 4:2292-2296, 7:4092-4098.) As the FEIR explained, "the DEIR ultimately relied upon the PCAPCD numeric threshold of 1,100 MTCO_2e/year as the basis for significance conclusions, and this threshold approach was expressly noted by the Supreme Court as permissible." (AR 7:4084, 4:2292-2296, 7:4092-4098.) Thus, while the EIR included an efficiency analysis, the GHG significance conclusion "inform[s] the reader that emissions will exceed baseline levels, resulting in a significant impact." (*City of Long Beach v. City of Los Angeles* (2018) 19 Cal.App.5th 465, 494; AR 4:2295, 7:3978; see AR 7:4088.)

Petitioner argues the DEIR evaluated "only the Project's alleged 'efficiency' and by representing that GHG emissions would be insignificant in the development's early phases." (OB, p. 27.) This claim is false. (See AR 2:844, 4:2292-2296, 7:3970-3980, 4079-4098.) The DEIR compared GHG at full buildout to the numeric threshold, performed the efficiency analysis based on a hypothetical 2020 buildout, and discussed GHG significance at full buildout (AR 4:2292-2295). The DEIR then concluded that the impact was significant because the Project would generate substantial

GHG emissions and may not be consistent with future GHG reduction targets. (AR 4:2295.) The DEIR made one conclusion on GHG significance for the *whole* project, as required by CEQA. (AR 4:2295.)

Petitioner argues that the EIR had to be recirculated because the FEIR "reveals new, more severe impacts than previously disclosed." (OB, p. 27.) Although the FEIR revised the estimate of GHG emissions, the estimate went down, not up, and the FEIR explained why. (AR 7:3971, 3975-3977, 2:845.) As explained, the DEIR's conclusion on "GHG emissions would not be changed" because the "emissions would exceed the PCAPCD Tier I mass emissions threshold … and compliance with future targets is unknown" (AR 7:4088), the same conclusion reached in the DEIR. (See AR 4:2295.) The analysis in the DEIR was not "flatly inadequate." (OB, p. 27; see *Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043, 1050.) Nor was the revised analysis in the FEIR truly "new." Rather, the FEIR updated the GHG analysis in light of *Newhall Ranch* and revised, lower emissions estimates. (AR 2:844-845, 7:3970-3980, 4082-4088; see *WPCARE*, *supra*, 144 Cal.App.4th at p. 905.)

Pesticide Action Network North America v. Dept. of Pesticide Regulation (2017) 16 Cal.App.5th 224 is distinguishable. There, the agency's significance conclusions were "effectively meaningless" because the agency "provided no analysis or explanation to show how it reached" them. (16 Cal.App.5th at p. 252.) Here, the DEIR provided ample analysis to support its significance conclusions. (AR 2278-2296.) *American Canyon Community United for Responsible Growth v. City of American Canyon* (2006) 145 Cal.App.4th 1062, 1075-1081, is also distinguishable. There, the court found the expansion of a shopping center could increase peak traffic in ways the city had not analyzed. (*Ibid.*) Here, the revised analysis did not alter the DEIR's emission estimates or conclusions. (AR 2:844-845, 4:2292-2296, 7:3970-3980, 4082-4088.)

Petitioner argues the County must also reevaluate GHG mitigation. (OB, p. 28.) In fact, MM 16-2 will be enforced by the County and PCAPCD—not Squaw—through the MMRP. (AR 2:1063-1064; Pub. Resources Code, § 21082.1, subd. (b); *Treasure Island*, *supra*, 227 Cal.App.4th at p. 1059; *Save Panoche Valley*, *supra*, 217 Cal.App.4th at p. 525.) MM 16-2 includes a suite of reduction tools and allows "any combination" to ensure compliance. (AR 7:3979-3980, 12:6730-6739.) Compliance is tied to subdivision map submittal (AR 2:1063-1064), "a common and reasonable mitigation measure." (*Rominger*, *supra*, 229 Cal.App.4th at p. 728; see *Newhall Ranch*, *supra*, 62 Cal.4th at p. 239

[compliance with plan requirements]; *Mission Bay Alliance v. Office of Community Investment and Infrastructure* (2016) 6 Cal.App.5th 160, 198-203 (*Mission Bay*) [consistency with GHG strategy].)

The EIR recognized that more stringent GHG reduction targets would likely be adopted during the projected 25-year build out. (AR 2:848, 8:4780-4781.) The County crafted MM 16-2 recognizing this fact, without speculating about what those future targets or regulations might be. (AR 4:2294-2296, 7:3977-3980.) Nevertheless, the County committed to mitigating the Village's GHG impacts. (AR 1:263-264, 2:1063-1064; see *City of Hayward*, *supra*, 242 Cal.App.4th at pp. 854.) But the County did not rely on MM 16-2 to conclude that GHG impacts would be insignificant. (AR 1:263-264, 4:2296, 7:3980; *Fairview Neighbors v. County of Ventura* (1999) 70 Cal.App.4th 238, 242.) Further, the flexibility in MM 16-2 is not the same as impermissible deferral. (*Neighbors for Smart Rail*, *supra*, 57 Cal.4th at p. 465-466; *City of Hayward*, *supra*, 242 Cal.App.4th at pp. 851-856; *Mission Bay*, *supra*, 6 Cal.App.5th at p. 188-191.) MM 16-2 was found feasible, and would "lessen, though not to a less than potentially significant level, the significant environmental effects" of the Project. (AR 1:264.)

E. The EIR's analysis of construction noise complied with CEQA.

Subject to review for substantial evidence, Petitioner argues the EIR neglected to consider the Project's construction noise impacts "over a lengthy, 25-year period, including nights and weekends, impacting sensitive receptors." (OB, pp. 28-29.) The EIR is clear. Build-out would occur in phases "*off and on over 25 years*" – not continuously for 25 years. (AR 7:4030, 4045-4046, 68:40374, 40378.) The "sequence and pace [of construction] would be market driven." (AR 3:1772, 1777; 4:2084, 5:2401.) The Plan echoed this fact. (AR 3:1214.) Petitioner's fear that residents or other sensitive receptors will experience construction noise "every day for 25 years" is baseless. (OB, p. 29.) Petitioner characterizes the noise analysis as "paltry." (OB, p. 29.) That is inaccurate. The EIR identified construction noise (both direct and cumulative) as significant (Impacts 11-1 and 18-31) after conducting detailed modeling. The EIR found the impact significant because of the relatively large scale of construction occurring over a long period of time, in a "relatively quiet mountain environment," and because of the need for periodic night-time work that may increase noise levels by 5 dB. (AR 1:260, 1:271, 4:2083.) Mitigation measures were imposed. (AR 4:2086-2087, 2:1047-1051.) The County concluded that construction noise would remain significant. (AR 1:262-263, 271.)

The EIR provided data on existing noise levels (AR 4:2072-2076, 7:3854-3855) and identified the proximity of existing sensitive receptors, including residences near Squaw Valley Road, the East Parcel and the existing parking lot. (AR 4:2072-2074, 2:849 [marked white on Exhibits 11-1 and 11-2]; 7:3854-3855 [existing noise sources].) The EIR explained that construction activities could occur within 50 feet of sensitive receptors. (AR 4:2085.) The EIR also described the potential effects on humans from changes in noise levels, including sleep disturbance. (AR 4:2068-2069 [human responses]; 4:2084 [potential for sleep disturbance]; 4:2070 [10-dB penalty applied during night-time hours and 5-dB penalty during evening hours].) During the construction season (May 1 to Oct. 15) "[c]onstruction equipment would vary day-to-day" during demolition, site preparation, grading and paving. (AR 3:1777, 4:2084-2085.) The EIR estimated daytime and night-time construction noise. (AR 4:2082-2087, 7:3806-3809.) The modeling did not assume reductions from the environment and therefore conservatively represents "worst-case" noise levels. (AR 4:2083; *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 373 (*Napa Citizens*).)

Petitioner ignores the nature of the Specific Plan approval. (*California Oak Foundation v. Regents of Univ. of Calif.* (2010) 188 Cal.App.4th 227, 271 fn. 25 [level of specificity of EIR determined by nature of project]; Guidelines, § 15146.) Because construction would be market driven, a specific construction schedule does not exist; instead, the EIR based its analysis on the maximum amount of construction activity that could occur during the single most active possible construction year, identified as 20% buildout of the total Specific Plan. (AR 3:1772, 1777, 4:2084, 5:2401 [20% is the equivalent of 300 bedrooms].) Consequently, future applications for subdivision maps must include a "Subsequent Conformity Review," to ensure consistency with the Specific Plan and EIR. If the applications show potential inconsistencies, then additional analysis would be required. (AR 3:1206-1209; 2:1050-1051 [MM 11-4b conduct site-specific noise study].) Petitioner suggests the EIR had to identify specific noise levels at specific locations throughout the 25-year build out. (OB, p. 29.) The information needed to perform such analysis does not exist. Instead, the EIR focused, appropriately, on a "worst-case" noise scenario and cumulative conditions. (AR 4:2084-2085, 1:271, 4:2378-2379.)

The EIR explained the need for periodic night-time construction work due to storm events and large continuous concrete pours which, when started, must continue without interruption to ensure

proper setting of the concrete. (AR 3:1777; 4:2085.) Identifying construction noise impacts within 50 feet is standard practice. (See *Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1578 (*Pfeiffer*) [noise analysis identifying average noise levels at 50 feet].) That does not mean the EIR failed to analyze the "*full geographic range*" of noise impacts. (OB, p. 29.) Petitioner also ignores the FEIR's responses to Petitioner's comments, where the County explained its approach and cited where the EIR quantified and mitigated construction noise impacts. (AR 2:849-850, 68:40373-40384.) [9]

Berkeley Jets, *supra*, 91 Cal.App.4th 1373, cited by Petitioners (OB, p. 29), involved an airport expansion, including a large increase in cargo planes "during the noise-sensitive night-time hours." (*Id.* at 1372.) The EIR evaluated aircraft noise using the "community noise equivalent level" (CNEL) metric, which estimated the average increase in noise over a 24-hour period, and used 65 CNEL as the standard to determine significance. Commenters pointed out that this approach skirted analysis of the impact of night-time, single-event noise, and submitted expert reports regarding the potential for sleep disruption, but the agency ignored these comments. (*Id.* at p. 1377.) The court found the EIR inadequate because it ignored single-event noise and the potential to disrupt sleep. (*Id.* at p. 1382.)

Here, by contrast, the EIR disclosed and mitigated the potential for occasional construction noise which may cause sleep disruption during the night-time hours. (AR 4:2084, 2088, 2096, 3:1571 [MM 11-4b].) Examination of site-specific impacts would be speculative given the lack of information about the timing of future development and future existing conditions which may or may not exist. (AR 2:849-850; Guidelines, § 15146, subd. (b); *Laurel Heights I*, *supra*, 47 Cal.3d at p. 396; *Sierra Club v. Tahoe Regional Planning Agency*, *supra*, 916 F.Supp.2d at pp. 1146-1150 [distinguishing *Berkeley Jets* and upholding noise analysis in EIR for ski resort].) Because the EIR included site specific information and mitigation for construction noise on the Squaw Valley Academy, Petitioner assumes the County could foresee noise impacts on all other known sensitive receptors which, Petitioner speculates, "*may*

[9] *Los Angeles Unified Sch. Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019, is distinguishable. (OB, p. 29.) There, the EIR concluded that increased traffic noise generated by the project would be insignificant because existing ambient noise exceeded maximum recommended levels. (*Id*. at 1024.) The EIR ignored the cumulative effects of the incremental increase of noise on top of the degraded setting. (*Id*. at pp. 1024-1028.) Here, the EIR described the existing setting and the Project's noise impacts to the extent feasible, including potential effects on nearby sensitive receptors both from construction and long-term operation. (AR 4:2072-2076, 2083-2086, 2378-2380.)

be exposed to longer construction durations." (OB, p. 30.) But, the Academy is located across from the East Parcel (with a finite amount of proposed construction) and no other foreseeable surrounding development, thus availing the County with greater certainty. Such precision for the Village portion of the Plan area was not possible because the timing of construction is unknown. (AR 68:4030-4034, 3:1751, 1269, 1504, 4:2092.) In short, the analysis sought by Petitioner would be speculative.

Petitioner dismisses the County's noise ordinance, which conditionally exempts construction noise that occurs during certain daytime hours. (AR 4:2080, citing Placer County Noise Ordinance [Article 9.36.030].) Under this ordinance, the EIR could have found daytime construction noise exempt and therefore insignificant. (See *National Parks*, *supra*, 71 Cal.App.4th at pp. 1358-1359.) It did not. (AR 4:2086; 7:4045-4046.) Instead, the County found construction noise significant and imposed mitigation. (AR 2:1047-1048 [MM 11-1a – 11-3], 1051 [MM 11-5].) [10] As mitigated, staging areas must be located as far as possible from nearby noise-sensitive land uses, and construction equipment must be maintained and equipped with mufflers and self-adjusting backup alarms. (AR 2:1047.) Noise attenuating buffers (structures, truck trailers, noise curtains or soil piles) must be used to shield nearby sensitive receptors. (*Ibid*. [MM 11-1a].) For those activities proposed outside of the County Code exemption timeframes that may generate more than 45 dBALeq/65 dBALmax at 50 feet, Squaw must apply for an exception and provide notice to adjacent landowners. (AR 2:1048 [MM 11-1b].) Future site-specific noise studies are required prior to construction of residential units. (AR 3:1571; see *Laurel Heights I*, *supra*, 47 Cal.3d at p. 418 [noise mitigation upheld].) At 30% buildout, a rubberized hot mix asphalt overlay or equivalent surface treatment must also be installed on Squaw Valley Road. (AR 2:1051 [MM 11-5]; AR 1:329-330 [reduce traffic noise by 4 to 6 dB], 2:1042-1043 [MM 9-8 (Develop CTMP).) The County nevertheless found an unavoidable impact. (AR 1:260-263, 271.) Petitioner's claim that the County never effectively mitigated is unfounded. (*Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1030; *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 33-34; *Pfeiffer*, *supra*, 200 Cal.App.4th at pp. 1577-1578 [upholding

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[10] *East Sacramento Partnerships*, *supra*, is distinguishable on this ground. (5 Cal.App.5th at pp. 300-303 [invalidating traffic analysis in EIR for failing to provide substantial evidence supporting less-than-significant impact at various intersections].)

mitigation of construction noise which restricted hours, located equipment far from sensitive receptors and employed temporary noise barriers].)[11] The County's conclusions are entitled to deference.

F. Petitioner's speculation that a subterranean stream may exist in the Valley does not render the EIR's water supply analysis inadequate.

The County extensively studied the Olympic Valley Groundwater Basin (OVGB) and its ability to provide water for the Project. (AR 5:2875-6:3076 [2014 WSA], 3:1257-1467 [2015 Updated WSA], 7:3993-4009 [responses to comments]; Guidelines, § 15155, Wat. Code, § 10910 et seq.). As part of this effort, the County commissioned a groundwater analysis by Todd Engineers (Todd analysis), which summarized all known groundwater studies and modeling of the OVGB from "pre-1980 development" through 2011. (AR 31:17629-17646.) Faced with abundant evidence supporting the EIR's analysis, Petitioner focuses solely on whether a subterranean stream[12] exists over which the SWRCB "could" assert jurisdiction. (OB, pp. 32-33.)

Neither the EIR, nor the Todd analysis, nor the studies cited therein, identify a subterranean stream within the OVGB. Only Petitioner and its hydrogeologist (Dr. Tom Myers) raised the issue. Their comments are brief and devoid of evidence that a subterranean stream actually exists. (AR 2:862-863, 8:4616-4617, 4469; *North Gualala*, *supra*, 139 Cal.App.4th at pp. 1585-1586 [adopting four-part test to classify subterranean streams as established by the SWRCB's decision in *In re: Garrapata Water Co*. (1999)]; see OB, p. 32 [listing factors of *Garrapata* test].) Dr. Myers cited a study entitled "Groundwater Development and Utilization Feasibility Study, Groundwater Model Report" (Williams 2001). (AR 8:4469, 4482.) The study was prepared as a tool for the SVPSD to evaluate groundwater management and the OVGB's sustainable yield during a critically dry year (AR 31:17642), not to

[11] Petitioner's reliance on *Preserve Santee*, *supra*, 210 Cal.App.4th at p. 280 (OB, p. 30) for the notion that all noise-related mitigation measures require quantitative standards lacks support. (See *Sierra Club v. Tahoe Regional Planning Agency*, *supra*, 916 F.Supp.2d at pp. 1147-1151 [upholding EIR's reliance on Placer County ordinance to establish standards for construction noise].)

[12] In California, percolating groundwater is distinguished from subterranean streams, flowing through known and definite channels, which are legally classified as surface waters because of their stream-like characteristics and which therefore lie within the permitting jurisdiction of the SWRCB. (See AR 3:1293; Water Code, § 1200.) Subsurface water that is not part of a subterranean stream flowing through a definite channel is considered "percolating groundwater." (*North Gualala Water Co. v. State Water Resources Control Board* (2006) 139 Cal.App.4th 1577, 1582 fn. 4 (*North Gualala*).)

determine whether a subterranean stream exists. The "profiles and cross-sections" characterized by Dr. Myers as evidence of a subterranean stream do not appear in the record. (AR 8:4469.) Petitioner's theory is therefore bereft of evidence. (*Rominger*, *supra*, 229 Cal.App.4th at pp. 722-723 ["expert" letter too vague to be substantial evidence]; *Clews*, *supra*, 19 Cal.App.5th at pp. 194-195 [same].)

Petitioner nevertheless cherry picks scattered pages of the record in hopes of cobbling together enough "evidence" to support its claim. (OB, p. 33.) None of the cited passages addresses whether a subterranean stream exists under the *Garrapata* test. In fact, as explained in the DEIR and WSA, the OVGB is an un-adjudicated basin which consists of an alluvial aquifer and percolating groundwater. (AR 3:1293, 4:2135-2143.) The "water flows and is stored in porous sediments." (AR 8:4513, 4:2137.) The "official DWR groundwater basin description cites no mention of subterranean streams in the [OVGB], nor does it characterize the basin as under the sole influence of the creek." (AR 8:4513.) DWR Bulletin No. 118 describes the OVGB as a "complex unconfined and semi-confined aquifer system." (AR 110:65023-65025.) As such, overlying landowners such as SVRE may extract and use groundwater for land in the watershed. (AR 3:1293-1294, citing *City of Barstow v. Mojave Water Agency* (2000) 23 Cal.4th 1224; *O.W.L. Foundation v. City of Rohnert Park* (2008) 168 Cal.App.4th 568.) Because Dr. Myer's speculate on what SWRCB may do in the future, rather than on a "significant environmental" issue, additional detail was not required. (Guidelines, § 15204, subd. (a).)

Petitioner ignores this evidence, and asserts that a subterranean stream exists, based solely on its own expert's conclusory statements and the above referenced cherry-picked citations. (Pub. Resources Code, § 21080, subd. (e)(2), Guidelines, § 15384, subd. (a); *Saltonstall v. City of Sacramento* (2015) 234 Cal.App.4th 549, 582 [upholding EIR against contrary opinions].) None of the cases cited by Petitioner involved such speculation. (See OB, p. 34, citing *Cadiz*, *supra*, 83 Cal.App.4th at pp. 91-93 [inadequate quantification of aquifer]; *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 870, 873-875 [failure to disclose proposal to curtail diversions on river]; *Napa Citizens*, *supra*, 91 Cal.App.4th at pp. 378-380 [failure to adopt traffic mitigation causing inconsistency with policies]; *Banning Ranch*, *supra*, 2 Cal.5th at pp. 935-939 [EIR inadequate for failure to identify protected resources known to be present].) The County reasonably declined to engage in the same mental gymnastics urged by Petitioner here to find the water supply uncertain. (See AR 8:4515

[“‘absent evidence to the contrary, groundwater is presumed to be percolating groundwater, not a subterranean stream’”]; see *Apartment Assn. of Greater Los Angeles v. City of Los Angeles* (2001) 90 Cal.App.4th 1162, 1176 [speculation, even by expert, is not substantial evidence].)

G. Substantial evidence supports the County’s finding that the Reduced Density Alternative is infeasible.

Petitioner attacks the Board’s findings rejecting the “Reduced Density Alternative.” (OB, pp. 35-37.) The sole issue is whether substantial evidence supports that finding. (*Sierra Club v. County of Napa* (2005) 121 Cal.App.4th 1490, 1502-1506; *Association of Irritated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1400-1401 (*AIR*); *SFUDP*, *supra*, 102 Cal.App.4th at pp. 689-692].) Even the cases cited by Petitioner apply this same, deferential standard of review. (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 598-599 (*Uphold Our Heritage*); *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1356-1359 (*Preservation Action Council*).) [13]

The “Reduced Intensity Alternative” (RDA) involved down-sizing the Village by roughly 50%. The EIR studied this alternative as a means of lessening, if not avoiding, the project’s significant impacts, particularly with respect to traffic. (AR 4:2323-2330, 7:4052.) [14] The EIR concluded that the RDA would reduce certain impacts, but would not meet several project objectives, and its financial feasibility was uncertain. (AR 4:2344; 7:4050, 7:4066-4067; 9:4818-4819.) The EIR also noted, correctly, that the Board would make the ultimate decision on whether the RDA, or any other

[13] Petitioner cites two other cases – *Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1456-1465 and *Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal.App.4th 866, 884-885 – which involved claims that an EIR was defective because it did not analyze an alternative, despite evidence the alternative would avoid significant impacts, and with no basis for ruling it out. Here, Petitioner does not challenge the EIR, but instead argues the findings regarding alternatives are unsupported. The cited cases address a different claim than the one made here. (See AR 9:4818-4819.) The third case states the record contained no evidence supporting the city’s decision to reject a downsized alternative. (*California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 205-206 (*CCEC v. Woodland*).)

[14] Another alternative involved a revised Project to avoid wetlands and historic resources, also down-sizing the project by roughly 20%. (AR 4:2334-2440.) That is precisely what an alternatives analysis is supposed to do: search for potentially feasible ways to implement the project while avoiding significant impacts. (Guidelines, § 15126.6, subd. (b).) Petitioner appears to dismiss this alternative (OB, p. 35 fn. 10), but its dismissal is unelaborated and therefore waived. (*Inyo Citizens for Better Planning v. Inyo County Bd. of Sup.* (2009) 180 Cal.App.4th 1, 14.)

alternative, was feasible. (AR 7:4052-4054; 9:4818-4819; see *Sierra Club v. County of Napa*, *supra*, 121 Cal.App.4th at pp. 1499-1508.) In approving the Project, the Board rejected the RDA as infeasible for two reasons: (1) the RDA was financially infeasible, and (2) the RDA did not achieve the project's objectives. (AR 1:242-244.) Because either finding would suffice (*Habitat and Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1307-1308), Petitioner has the burden of showing that *neither* finding is supported by substantial evidence. Petitioner does not meet its burden.

Economic infeasibility. On May 11, 2016, Economic and Planning Systems, Inc. (EPS), a consultant hired by Squaw with extensive experience (AR 87:51223-051231), issued a draft analysis of the economic feasibility of both the project and the RDA. (AR 22:12317-12476.) Goodwin Consulting Group (Goodwin), a County consultant, peer reviewed EPS' draft and provided recommendations. (AR 21:12304-12309.) EPS updated its analysis and submitted its final report (AR 21:11872-12025), and explained how it addressed Goodwin's recommendations. (AR 21:11869-11871.) EPS concluded the Village would initially operate with negative cash flow due to high upfront, fixed costs. Over the longer term, however, the Project would generate an internal rate of return (IRR) of 12% to 15%, the "minimally acceptable target range for this type of project on an unleveraged basis." (AR 21:11884.) "[T]he presence of substantial fixed costs in the project precludes the economic feasibility of [the RDA]." (*Ibid.*) Thus, "all available evidence indicates the infeasibility of the RDA, even under very optimistic assumptions." (AR 21:11885.) Goodwin endorsed EPS' report, finding that it provided a "reasonable portrayal" of "how the project would fare from a financial feasibility perspective." (AR 36:21119-21121, 17:10075-10078.) The Board was persuaded and rejected the RDA. (AR 1:243-244.)

Petitioner attacks this evidence as insubstantial, citing a letter dated November 14, 2016, the day before the Board hearing. (AR 38:22002-22004.) [15] Petitioner attached a letter from a real estate consultant who, unlike EPS (AR 17:10075-10076), had no experience in the Tahoe region or at ski resorts. (AR 38:22023.) The consultant's main complaint was that EPS' 156-page report was too skimpy. (AR 38:22019.) That is beside the point. (*Parker Shattuck Neighbors v. Berkeley City Council*

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[15] See *Citizens for Responsible Equitable Environmental Development v. City of San Diego* (2011) 196 Cal.App.4th 515, 528 (*CREED*) [agency not expected to pore through thousands of documents to find supports for petitioner's belief that the project shouldn't go forward].) That is particularly true where, as here, the letter's author "did not appear at either CEQA hearing to elaborate on [its] position." (*Ibid.*)

(2013) 222 Cal.App.4th 768, 786 [demand for further investigation is not evidence of impact].) The issue, however, is whether EPS' report, endorsed by Goodwin, is substantial evidence. It is.

Petitioner argues EPS overestimated land costs. (OB, p. 36, citing AR 38:22020-22022, 79:46591.) Land costs played a negligible role in EPS' analysis. (AR 21:11908.) Moreover, EPS performed a sensitivity analysis using more optimistic assumptions for land values and other variables; the RDA remained "clearly infeasible" even if land costs and other variables "were modified and wrapped into one heroic scenario." (AR 21:11914.) As EPS explained, infrastructure costs are largely fixed; a 50% reduction in units does not correlate with a 50% reduction in fixed costs. (AR 21:11883-11884, 21:12306-12307 [Goodwin memo], 18:10262-10265 [fixed infrastructure costs].) The largest cost is for structured parking for day skiers. Squaw currently uses large surface lots to accommodate day skiers (AR 3:1743), but that is where both the Project and the RDA would be located (AR 3:1753-1757, 4:2325); under either scenario, Squaw must replace day skier parking, and the only way to do that is with structured parking. (AR 21:11908-11909, 18:10264.) [16] In short, evidence of the economic infeasibility of the RDA is overwhelming. In this respect, the record is nothing like the cases cited by Petitioner. (See *Preservation Action Council*, *supra*, 141 Cal.App.4th at pp. 1355-1356 [city "failed to make a specific finding regarding the infeasibility of the reduced-size alternative," and the record contained no evidence supporting such a finding, save the developer's self-serving statement that it would not build a reconfigured project]; *CCEC v. Woodland*, *supra*, 225 Cal.App.4th at pp. 205-206 [record did not support reasons for rejecting reduced-size alternative]; *Uphold Our Heritage*, *supra*,

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[16] At the Board hearing on November 15, 2016, the so-called "gang of five" presented an alternative which spread out the lower number of units in a configuration that (in their view) reduced the need for structured parking. (AR 79:46593.) This newly-hatched alternative came at a profound cost. From the outset, restoration of Squaw Creek was a key Project objective. (AR 1:228, 3:1746, 3:1772-1776; see AR 90:53042, 53046 [SVGP policies].) Under this proposal, areas designated for restoration would instead be surface parking; moreover, the proposal still fell short of spaces needed for day skiers. (AR 17:9711-9719, 18:10264 [2,500 spaces needed]; 21:12041 [peak day-skier parking demand = 3,100 spaces].) An "alternative vision" submitted, again, the day before the Board hearing (AR 38:22040-22047) fared no better; that "vision" also retained surface parking on both sides of Squaw Creek, cut residential units by over half, and gutted the "mountain adventure center," a key feature ensuring year-round visitors and the viability of the Project. (AR 18:10403-10404, 21:11881-11884, 11899-11902.) After five years of debate, Petitioner waited until the Board's final hearing to propose its "vision." (*CREED*, *supra*, 196 Cal.App.4th at p. 528 [criticizing last-second document dump].)

147 Cal.App.4th at pp. 598-601 [record contained no evidence comparing costs of restoring historic structure with demolition and rebuild].) Indeed, in multiple decisions – all ignored by Petitioner – the courts have upheld "infeasibility" findings based on evidence much like what EPS and Goodwin provided the County. (*Flanders Foundation, supra,* 202 Cal.App.4th at pp. 619-623 [report from real estate professional regarding reuse of historic building]; *AIR*, *supra*, 107 Cal.App.4th at pp. 1398-1401 [testimony by economist and letter from lender concerning infeasibility of "reduced" alternative]; *SFUDP*, *supra*, 102 Cal.App.4th at pp. 693-695 [peer reviewed report].)

Project objectives. In rejecting the RDA, the Board found that this alternative did not achieve the objective of realizing Squaw's goal of becoming a year-round destination resort "on par with peer world class" destinations. (AR 1:244.) Petitioner accuses the County of fashioning unduly narrow objectives, citing *North Coast Rivers Alliance v. Kawamura* (2015) 243 Cal.App.4th 647. In that case, however, the EIR did not analyze an alternative because it was inconsistent with an artificially truncated objective. (*Id*. at pp. 668-669.) Here, the EIR analyzed the RDA, despite its potential infeasibility. (AR 4:2323-2330.) Moreover, the objective of enabling Squaw to serve as a year-round destination was not based on an ad hoc whim: the 1983 SVGP stated its "purpose" was "to establish a planning framework to ensure that Squaw Valley is developed into a top quality, year-round, destination resort." (AR 90:53031.) The objective sprung from this longstanding policy. (AR 2:1082.)

Petitioner claims the County rejected the RDA based on a "units-to-skiable-acreage" ratio comparison with peer resorts. (OB, p. 36.) But that was just one of several factors cited by the Board to find that the RDA did not meet this objective. The County also cited the halving of the "mountain adventure center," a key attraction to draw visitors during "shoulder" seasons and to support real estate values needed to make the Project viable. (AR 1:243-244, 18:10403-10404 [Squaw memo re: effect of downsizing center], 21:11881-11884, 11899-11902 [EPS report re: importance of center to Project viability].) Petitioner ignores this finding and the evidence supporting it. That is reason enough to reject its argument. (*Habitat and Watershed Caretakers*, *supra*, 213 Cal.App.4th at pp. 1307-1308.)

Petitioner's argument rests on 11th-hour letters stating that EPS' figure for "skiable terrain" improperly included acreage at Alpine Meadows, a ski resort adjacent, but not connected, to Squaw. (OB, pp. 36-37.) The County declined to analyze the Village and a separate proposal to connect Squaw

to Alpine via a gondola as a single project. (AR 8:4737.) Without the gondola, however, Squaw and Alpine are under common ownership, Squaw operates a shuttle service connecting them (AR 2:1130-1131), and they largely serve as a single destination, much like Squaw's peers – an industry that Andy Wirth, Squaw's President and CEO, described as "hypercompetitive." (AR 16:9446.) Measured against these peers, Squaw's lodging lags. (AR 7:3868-3875, 21:11891-11894.) That remains true even if one accepts the math of Petitioner's consultant, who subtracted Alpine's skiable terrain and added non-existent lodging units. (AR 38:22021 [0.37 ratio at Squaw], 21:11894 [0.53 ratio at peer resorts].)

Finally, Petitioner argues the County erred by emphasizing one objective (Squaw as year-round destination resort) over others (protecting natural resources and providing compact development). (OB, p. 37.) In fact, the Project goes to great lengths to protect natural resources by restoring Squaw Creek, concentrating development on existing parking lots, and supporting expanded public transit, among many other features. (AR 1:371-376, 16:9435-9436 [80% of area already disturbed], 21:12113-12151 [restoration plan for Squaw Creek], 87:50977-50978 [transit contributions].) "[A] public agency may find an alternative is 'infeasible' if it determines, based upon the balancing of the statutory factors, that an alternative cannot meet project objectives or 'is impractical or undesirable from a policy standpoint.' [Citation.] [¶] An agency's finding of infeasibility … is 'entitled to great deference' and '"presumed correct."' [Citation.]" (*Los Angeles Conservancy v. City of West Hollywood* (2017) 18 Cal.App.5th 1031, 1041 [upholding rejection of alternative that retained a historic building as incompatible with city's design goals].) In this case, the Board's decision to reject the RDA as inconsistent with the policy objective of promoting Squaw as a year-round destination was well within its discretion. (*Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal.App.4th 899, 947-949 [city's decision to reject "reduced density alternative" upheld; evidence supported conclusion that excluding shopping center's outparcels would be inconsistent with objective to provide mix of uses]; *Sierra Club v. County of Napa*, *supra*, 121 Cal.App.4th at pp. 1507-1508 ["reduced development alternative" rejected as inconsistent with applicant's objective to consolidate winery operations]; *Goleta*, *supra*, 52 Cal.3d at p. 575 fn. 7 [alternative site rejected as too small to accommodate hotel of sufficient size to be feasible].)

CONCLUSION

Real Party respectfully request that the Court deny the petition in its entirety.

Dated: March 2, 2018

Respectfully submitted,

REMY MOOSE MANLEY, LLP

By: ______________________________
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SQUAW VALLEY REAL ESTATE, LLC

Sierra Watch v. Placer County, et al.
Placer County Superior Court Case No. SCV0038777

PROOF OF SERVICE

I, Bonnie Thorne, am employed in the County of Sacramento. My business address is 555 Capitol Mall, Suite 800, Sacramento, CA 95814, and email address is bthorne@rmmenvirolaw.com. I am over the age of 18 years and not a party to the above-entitled action.

I am familiar with Remy Moose Manley, LLP's practice for collection and processing mail whereby mail is sealed, given the appropriate postage and placed in a designated mail collection area. Each day mail is collected and deposited in a USPS mailbox after the close of each business day.

On March 2, 2018, I served the following:

REAL PARTY'S OPPOSITION BRIEF

☒ **BY FIRST CLASS MAIL** by causing a true copy thereof to be placed in a sealed envelope, with postage fully prepaid, addressed to the following person(s) or representative(s) as listed below, and placed for collection and mailing following ordinary business practices.

☐ **BY OVERNIGHT DELIVERY** by causing a true copy thereof to be placed in an envelope or package designated by the express service carrier with delivery fees paid or provided for, addressed to the person(s) or representative(s) as listed below, and deposited in a dropbox or other facility regularly maintained by the express service carrier.

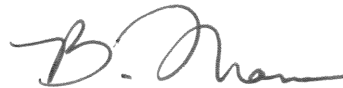
☐ **BY FACSIMILE** by causing a true copy thereof to be delivered via facsimile from (916) 443-9017, to the following person(s) or representative(s) at the facsimile number(s) listed below, with a transmission reported as complete and without error.

☒ **BY ELECTRONIC TRANSMISSION OR EMAIL** by causing a true copy thereof to be electronically delivered to the following person(s) or representative(s) at the email address(es) listed below. I did not receive any electronic message or other indication that the transmission was unsuccessful.

☐ **BY PERSONAL SERVICE** by causing a true copy thereof to be hand-delivered to the following person(s) or representative(s) at the address(es) listed below.

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury that the foregoing is true and correct. Executed this 2nd day of March 2018, at Sacramento, California.



Bonnie Thorne

Sierra Watch v. Placer County, et al.
Placer County Superior Court Case No. SCV0038777

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