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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]

PETITIONER'S REPLY BRIEF

[California Environmental Quality Act ("CEQA"), Pub. Res. Code § 21000 et seq.: CCP § 1085 (alternatively § 1094.5)]

Date: April 26, 2018
Time: 8:30 a.m.
Dept.: 43
Judge: Hon. Michael W. Jones

Petition Filed: December 15, 2016

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INTRODUCTION

The opposition brief filed by Real Party in Interest ("Real Party") and joined by the County does not credibly explain the CEQA errors identified in Petitioner's Opening Brief ("PB"). Instead, it presents arguments unsupported in the record or applicable law. For example:

- Real Party claims the Environmental Impact Report's ("EIR") passing references to the Tahoe Basin satisfy CEQA's requirement to describe the Project's regional setting. They do not. *See San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722-29 ("*Raptor*"). Real Party also asserts that the EIR need not analyze the Project's *impacts* on the Basin simply because the Project lies outside its boundary. The California Supreme Court rejected this exact argument. *City of Marina v. Bd. of Trustees of Cal. State Univ.* (2006) 39 Cal.4th 341, 359-60, 367.

- Real Party cannot defend the EIR's conclusion that the Project would cause no significant impacts on emergency evacuation. Among other decisive facts, the record shows that, even assuming smooth evacuation during a wildfire, it would take up to 10.7 hours to evacuate the site via a single road.

- Real Party offers only bare conclusions to argue that the Project's serious traffic impacts would be mitigated to an insignificant level. It also cannot justify the EIR's failure to evaluate traffic mitigation the County knew was feasible. Nor can Real Party defend the EIR's reliance on deferred transit mitigation that depends on a nonexistent plan of a separate agency.

- Real Party attempts to rewrite history by suggesting that (1) the Final EIR ("FEIR") did not change the Draft EIR's ("DEIR") threshold of significance for the Project's climate change impacts, and (2) the County would immediately enforce "reduction tools" to mitigate those significant climate impacts. Neither is true. The EIR must be recirculated with the significantly altered climate analysis, and the County must evaluate feasible mitigation. Cal. Code Regs., tit. 14 ("Guidelines"), § 15088.5(a)(2).

- While acknowledging that Project construction would generate extreme noise over a 25-year period, Real Party rejects as "too speculative" an analysis of actual noise impacts on nearby sensitive receptors. The argument is untenable. The County *knows* the location of Project components

and the affected sensitive receptors; the EIR even completed a noise analysis for one impacted school. There is no excuse for omitting the same analysis for other sensitive receptors.

- Real Party concedes that an expert hydrologist warned the County that the Project's identified water source, the Olympic Basin, is a subterranean stream subject to State Water Board jurisdiction. It also concedes that the County failed to address the expert's comment. While Real Party now tries to attack the substance of the expert's comment, this is too little, too late. Because the issue was raised by an expert in the field, CEQA required the EIR to meaningfully address it.

- Real Party claims there are no feasible, reduced-size alternatives to its massive Project. But when the County rejected the EIR's reduced-size alternative and two others proposed by the public, it failed to make adequate findings as CEQA requires. Despite Real Party's attempted post hoc rationalizations, it cannot cure the problem now.

- Real Party seeks refuge in the standard of review, implying that nearly all of Petitioner's claims are subject to the more deferential "substantial evidence" test. But that test does *not* pertain to the majority of Petitioner's claims, which demonstrate that the EIR fails to provide required information about the Project's potential impacts. *See Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 935; PB 12-13. Real Party's cases are distinguishable: they either address an irrelevant "baseline" issue (*see* cases cited at Real Party's Opposition Brief ("RB") 15), or do not address a situation where, as here, the EIR fails as an informational document (*see* cases cited at RB 15, 21, 25).

Accordingly, Petitioner respectfully requests that the Court issue a writ of mandate directing the County to rescind its approval of the Project and the EIR.

ARGUMENT

I. Real Party Cannot Explain the EIR's Failure to Provide Project Setting Information or Analyze the Project's Impacts on the Sensitive Lake Tahoe Basin.

Real Party has no tenable excuse for the EIR's failure to provide critical information regarding the Project's regional environmental setting, which includes the Lake Tahoe Basin, or to adequately

analyze or mitigate the Project's significant impacts on this internationally treasured resource. Initially, Real Party claims that because the Project is not within the Basin or TRPA's jurisdiction, the EIR need not describe Lake Tahoe in detail or the Project's impacts on it. RB 15. Real Party is wrong. CEQA—not TRPA regulations—requires this missing analysis. The Supreme Court has held that CEQA requires a public agency to analyze and "mitigate or avoid its projects' significant effects not just on the agency's own property but '*on the environment*,' with 'environment' defined … as 'the physical conditions … *within the area which will be affected by a proposed project*.'" *City of Marina*, 39 Cal.4th at 360, 367.

Here, the Project would unquestionably cause environmental effects within the Tahoe Basin. The Project would add over 1,300 car trips and 23,842 vehicle miles traveled (VMT) *in a single day* to the Basin. Administrative Record ("AR") 7:4016, 4132. In addition to increasing traffic, these cars would cause air pollution and produce finely-crushed road sediment that degrades the clarity and water quality of Lake Tahoe. PB 15. The EIR, however, fails to adequately disclose the sensitive regional setting, analyze the Project's impacts to the Tahoe Basin, or mitigate such impacts if feasible.

Environmental Setting: As Real Party concedes (RB 15), an EIR cannot adequately evaluate a project's impacts without describing the regional environmental setting (*see* PB 14). The environmental setting is especially critical where "environmental resources that are rare or unique to [the] region [] would be affected by the project." Guidelines § 15125(c). Here, the EIR never describes the status of Lake Tahoe's water quality and clarity, the Tahoe Basin's air quality, and the region's scenic resources.

Real Party admits the EIR does not describe the region's scenic resources, but claims the document adequately describes the Basin's air and water quality.[1] RB 16. Specifically, Real Party claims the EIR's dismissive mention of Lake Tahoe as beyond the Squaw Creek watershed adequately describes the Lake's water quality: the "Squaw Creek watershed [is] a tributary to the middle reach of the Truckee River (downstream of Lake Tahoe)." *Id*. (quoting AR 4:2126). Real Party also claims the EIR's use of data from two monitors in the Basin can describe the air quality setting. RB:16.

These passing references and data points do not nearly meet CEQA's standards. *See Cadiz Land*

[1] Real Party claims the omission of the scenic environmental setting is not a CEQA violation "because the site is not visible from the Basin." RB 16. But the point is that the Project would send over 1,300 cars per day *into* the Basin, negatively impacting the scenic beauty of the area.

Co. v. Rail Cycle (2000) 83 Cal.App.4th 74, 92 (environmental setting information insufficient where EIR provided details regarding groundwater pumping but included no complete description of large aquifer at issue); *Raptor*, 27 Cal.App.4th at 722-29 (EIR's description of environmental setting "incomplete and misleading" for failing to disclose nearby wildlife preserve, river, and wetlands). Because the EIR here never adequately disclosed the regional environmental setting, it violated CEQA. *See Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 873-75 (failure to disclose conditions in neighboring river and another agency's efforts to protect that river).

Impacts Analysis: Because it omitted the necessary environmental setting information, the EIR fails to (1) disclose the Project's full *impacts* on the Tahoe Basin, or (2) evaluate feasible measures to mitigate those impacts. PB 15-18. Real Party cannot justify the EIR's errors. RB 16-20.

While Real Party first points to the EIR's traffic analysis (RB 16), it admits this analysis examines only roadway "level of service (LOS) and potential for delay" (RB 17; AR 4:1988-94, 2007-09). The EIR never assesses the Project's overall impacts on the air quality in the Lake Tahoe Air Basin.[2] *See* AR 4:2043-66. And, the EIR provides no significance thresholds to evaluate the Project's impacts on the Lake's water quality and clarity. *See* AR 4:2153-68. Because the County and the public thus had no ready way to determine whether the thousands of cars that would enter the Tahoe Basin would cause real harm to these precious resources, the EIR failed as an informational document.

Real Party incorrectly claims that the EIR adopted TRPA's cumulative threshold for VMT for the Tahoe Basin and concluded there would be no significant impacts on the Basin. RB 17, 20; AR 7:4033, 4076 (FEIR declining to adopt TRPA standards and claiming EIR's traffic thresholds were sufficient); *see also* RB 20-21 (supplemental responses do not alter FEIR analysis). Regardless, no substantial evidence demonstrates that the Project would not significantly impact the Basin. *See* PB 15, 17. Indeed, the new information in the FEIR and supplemental response to comments shows the Project is likely to significantly impact that resource. The Project's addition of 1,300 new daily car trips in the Basin is nearly seven times greater than TRPA's project-level threshold of 200 trips (AR 7:4129, 4132), and ample evidence illustrates that the Project would detrimentally impact unique Basin resources (*e.g.*,

[2] On a regional level, the EIR examined the Project's air quality impacts only for compliance with the Placer County Air Pollution Control District's requirements. AR 4:2052-66.

AR 2:611, 613, 621, 682-83, 906; 16:9566; 17:9910; 39:22503-13; 45:26020-25; 56:33000). CEQA requires recirculation, analysis, and mitigation of these impacts. *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 448-49 (FEIR's revelation that project might result in reduced flows during dry periods showed potentially significant impact requiring recirculation).

Next, Real Party asserts that TRPA's standards are irrelevant to the EIR's analysis because (1) their purpose is "to restore conditions in the Basin," not to assess environmental impacts, and (2) the link between VMT and the Tahoe Basin's air quality and Lake clarity is "inexact." RB 18-19. The courts have rejected similar arguments. In *Cleveland National Forest Foundation v. San Diego Association of Governments* ("*CNFF I*"), the agency argued that an Executive Order ("EO") setting statewide reduction goals to stabilize the climate was inapplicable to its project, and thus irrelevant to its CEQA review. (2017) 3 Cal.5th 497, 515. The Court disagreed, finding the EO highly relevant to the CEQA analysis because the scientific evidence behind it "has important value to policymakers and citizens in considering the emission impacts of a project." *Id.* Similarly, here, TRPA's standards are based on scientific evidence. *E.g.*, AR 2:682-83; 7:4128-31; 30:17611-18; 31:17619-27; 38:22208-12. Moreover, "difficulties caused by evolving … scientific protocols" do not justify an agency's failure to comply with CEQA. *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 96 ("*CBE*"). Thus, while the EIR need not use TRPA's standards as thresholds, it could not ignore the science behind them or the Project's significant impacts on the Basin.

Last, Real Party erroneously argues that impacts on the Basin would be mitigated by (1) air quality payments to TRPA pursuant to an eleventh-hour deal with the Attorney General, (2) transit mitigation, and (3) programs by other agencies to "reduc[e] tailpipe emissions and implement[] basin-wide plans to control run-off." RB 19-20. However, the County expressly stated that the air quality payments are not CEQA mitigation (AR 16:9455-56; 36:21007), and the Attorney General emphasized that the EIR's CEQA analysis remained deficient (AR 16:9427; 41:23671). Further, no evidence shows that the transit mitigation fee would improve Basin air quality. PB 17-18; *infra* Section IV.C. Finally, the Supreme Court has rejected the third approach. *City of Marina*, 39 Cal.4th at 360, 367 (agency may not rely on other agencies' programs to mitigate project's extraterritorial impacts). Additionally, none of this purported mitigation can excuse the EIR's lack of analysis. *Ukiah Citizens for Safety First v. City of*

Ukiah (2016) 248 Cal.App.4th 256, 264-65.

II. Real Party Cites No Evidence Supporting the EIR's Dubious Conclusion that the Project Would Not Significantly Impact Emergency Evacuations from Wildfires.

Real Party admits that the Project is located in a "very high fire severity zone"—the worst fire risk rating available—and that it would take between 5 to 10.7 hours to evacuate the site via a single access road. RB 21, 23. Yet, it points to no analysis or evidence supporting the EIR's conclusion that the Project's impacts on emergency evacuations would be less than significant, even under cumulative conditions. Instead, Real Party offers several patently inadequate excuses for this omission.

First, Real Party downplays the fire risk, claiming it is not as bad as what the "very high" fire severity zone "designation suggests." RB 21. In the same paragraph, however, Real Party acknowledges that a severe wildfire (the King Fire) occurred in close proximity to the Project site in 2014. RB 22. Indeed, the state's fire experts designated the site as having a very high fire risk "based on consistent statewide criteria" indicating highly severe wildfire risks such as "fuel loading, slope, fire weather, and other relevant factors." Gov. Code § 51178. The Legislature has also recognized that "[t]he wildfire front is not the only source of risk since embers, or firebrands, travel far beyond the area impacted by the front and pose a risk of ignition to a structure or fuel on a site for a longer time." Gov. Code § 51175. Here, the Project's planned development, including a 150,000-gallon propane "farm," would exacerbate the already high fire risks on the site. *See* AR 1:222; 4:2275; 5:2791-2817.

Real Party cites *Clews Land and Livestock, LLC v. City of San Diego* (2017) 19 Cal.App.5th 161 (RB 21), but that case is readily distinguishable. In *Clews*, the project was a small school (95 people total) on rural land that had at least two designated emergency access roads. *Id.* at 173, 194. By contrast here, the Project would add *thousands* of new residents and visitors to a forested, high fire risk area with only one way out. PB 19. In *Clews*, no evidence showed that the tiny school could increase fire danger; here, the EIR admits that the Project would exacerbate fire risks by placing massive development in the wildland-urban interface. AR 4:2257, 2275. Likewise, because the EIR provides only a perfunctory analysis of evacuation hazards, Real Party cannot distinguish *City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 391-95 or *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 405 ("*Laurel Heights I*"). RB 24.

Continuing its attempt to downplay the fire risks, Real Party next claims that area traffic is worse in the winter and that a mass evacuation in the summer is "unlikely." RB 22, 25. But the EIR elsewhere admits that the Project would *worsen* already bad summer traffic. AR 1:420-25, 464-66. Indeed, Real Party proclaims that a primary purpose of the Project is drawing more visitors in the dry summer months. *See* RB 41. At the same time, however, wildfires have been occurring at alarming rates and intensities in the area, increasing the potential for evacuations. *E.g.*, AR 5:2791-2817.

Real Party dismisses any potential traffic problem in an emergency because "incident commanders [will] assume control of roadways." RB 22, fn.7. But Real Party's citations do not provide substantial evidence for this assertion. *Id.* Indeed, the cited LSC report admits that there would *not* be enough staff to manage all roadways. AR 18:10298 (staff available only at limited intersections). And the Fire Chief stated that the assumption that traffic would be managed is "highly unrealistic."[3] AR 2:659. No addition of emergency personnel, however, could make up for the real problem: the lack of infrastructure. As the EIR elsewhere reveals, new traffic from the Project would create "significant and unavoidable" impacts under non-emergency conditions. AR 1:420-25, 464-66. The EIR includes no evidence to support its conclusions that these impacts would somehow be insignificant during an emergency evacuation, when *all people* (not just normal travelers) are fleeing the area, and conditions are "chaotic and dangerous."[4] AR 2:659; *see* AR 4:2274, 2391; 7:3969-70, 4011-14; PB 21.

Real Party next points to two studies, but neither provides the needed analysis of emergency evacuations missing from the EIR. The Citygate study (RB 22-23) does not address a mass emergency evacuation; instead, it discusses personnel capacity for individual emergency incidents (AR 28:16185-99). The second study, the LSC report (RB 23), supports *Petitioner's* claim. It reveals that evacuation of the site could take up to 10.7 hours. Common sense dictates such a drastic increase in evacuation time would generate a safety risk, which is directly at odds with the EIR's conclusion that it "does not necessarily generate a safety risk." AR 7:4013. Notably, neither the LSC report nor the EIR ever

[3] While the Fire Chief later expressed support for development of the Emergency Preparedness Evacuation Plan, he did not retract his criticisms of the EIR's analysis.

[4] According to Real Party, Petitioner argues that any impact, no matter how small, must be significant. RB 25. Not so. The point is, where the EIR determined the Project's traffic impacts to be significant in a non-emergency scenario, a fortiori, emergency evacuation impacts in the same area are significant.

explains what evacuation time would be safe, or how any "increase" in that time could be safe. The Fire Chief thus concluded the EIR's discussion was "rife with generalization and inaccuracy." AR 2:659-60.

Real Party also points to the Emergency Preparedness Evacuation Plan ("EPEP"), which was prepared after the release of the FEIR. But, as Petitioner explained, the EPEP undertakes *no* analysis of the Project's impacts on emergency evacuation plans. PB 21. Even if the EPEP could be seen as last-minute mitigation for the Project's emergency evacuation impacts, it could not excuse the EIR's failure to conduct a proper analysis. "CEQA EIR requirements are not satisfied by saying an environmental impact is something less than some previously unknown amount." *Ukiah Citizens*, 248 Cal.App.4th at 264 (citation omitted). Likewise, while the EPEP includes two sentences noting that "shelter-in-place" may be necessary as a back-up plan in a wildfire, neither it nor the EIR examines whether such desperate action would (1) create its own risks, or (2) provide an adequate substitute for an evacuation plan. AR 21:12223; *see also* PB 21; AR 4:2274-75; 7:3969-70. Real Party also points to the Construction Traffic Management Plan (RB 22-23), but this relates only to construction impacts and thus does not supply the missing CEQA analysis.

Finally, Real Party fails entirely to respond to Petitioner's argument that the EIR does not evaluate response times from emergency personnel in the event of an evacuation. *See* PB 19-20. It has therefore conceded the issue. *Trinkle v. Cal. State Lottery* (2003) 105 Cal.App.4th 1401, 1413.

In sum, Real Party's citations to other reports and studies neither excuse nor compensate for the EIR's failure to address one of most pressing issues regarding this massive Project: its exacerbation of fire risks in an area already prone to devastating wildfires. Because no credible evidence supports its conclusion that the Project would not significantly impact emergency evacuations in the event of a wildfire, the EIR violated CEQA. *City of Maywood*, 208 Cal.App.4th at 391-95.

III. Real Party Cannot Defend the EIR's Cavalier Treatment of Transportation Impacts.

A. The EIR's Unsupported Conclusion that Traffic Impacts Would Be Mitigated.

Real Party can identify no record evidence supporting the EIR's conclusion that the Project's traffic impacts would be mitigated. Instead, it resorts to self-serving assertions that the adopted mitigation is "state-of-the-art" and that Squaw Valley has managed traffic well in the past. RB 25-26. But the EIR never discusses whether these management measures have worked, or are "state-of-the-art."

See AR 4:2030-42. Nor do Real Party's citations (RB 26-27) support the EIR's conclusion (*see* AR 4:1986 [discussing traffic management agreement but not its efficacy); 8:4590 [no discussion of traffic management]; 18:10279-80 [same], 10405-08 [same]).

In fact, uncontroverted evidence in the record shows that Squaw Valley has *not* successfully managed traffic and parking under a plan in place since 1998. *See* AR 2:657-58; 4:1985-86; 11:6053-54. Accordingly, under the court's reasoning in *Laurel Heights I*, the County cannot disregard Squaw Valley's past mismanagement. While the *Laurel Heights I* court ultimately excused the university's past mismanagement of hazardous waste (RB 26), it did so only because there was evidence that the university had worked to remedy these problems (47 Cal.3d at 420). Here, Real Party cites no evidence that Squaw has ever been able to effectively address traffic issues.

Real Party next claims that the Fire Chief's expression of satisfaction, at the end of the process, with the Project's emergency wildfire plan somehow negated his earlier comments on Squaw's inability to manage traffic. RB 26. But the Chief's later comments addressed only the emergency plan; the Chief never retracted his concerns about Squaw's poor traffic management. AR 2:657-58; 11:6053-54 (Chief criticizing Squaw's traffic management); AR 17:9830-35 (Chief discussing EPEP). Real Party also cites the unsupported opinion of a County employee, but this does not qualify as substantial evidence under CEQA. RB 26 (citing AR 73:42836); Guidelines § 15384.

In sum, Real Party points to no credible support for the County's questionable traffic findings.

B. The County's Refusal to Address Feasible Traffic Mitigation.

Real Party's argument that the County properly evaluated Petitioner's proposed traffic mitigation is unconvincing. Real Party asserts that the County "explained why [proposed mitigation measures] were duplicative, unnecessary, or infeasible" (RB 27), but this is false. The County responses cited by Real Party do *not* address many of the proposed mitigation measures, including free and discounted bicycle rentals, amenities for bicycle commuters, bike storage for employees, and carpool bulletin boards. *See id.* (citing AR 2:844; 8:4600-01, 4764-65).

Santa Clarita Organization for Planning the Environment v. City of Santa Clarita (2011) 197 Cal.App.4th 1042 ("*SCOPE*"), cited by Real Party (RB 29), does not excuse the County's inaction. There, the court held that where a commenter provided 50 general suggestions for mitigation and

admitted that all of the measures "may not be appropriate for every project," the agency need not "explore each and every one." *SCOPE*, 197 Cal.App.4th at 1055. Here, Petitioner requested that the County evaluate only ten measures, all of which the County had already found feasible. *See* AR 8:4654-56; PB 23-24. Given these circumstances, CEQA required the County to evaluate the measures as requested. *Los Angeles Unified School Dist. v. City of L.A.* (1997) 58 Cal.App.4th 1019, 1029-31.

C. The County's Failure to Analyze and Mitigate Impacts to Public Transit.

The EIR fails to disclose critical baseline information regarding transit demand in the summer, thus leaving the public in the dark about how the Project would impact transit during this increasingly popular season at Tahoe.[5] Real Party has no credible justification for this omission or for its improper deferral of effective transit mitigation.

Real Party first argues that the EIR needed to provide information regarding transit use only for the peak winter season. RB at 28. But the only authority cited for this illogical argument—*Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200—is inapposite. *Clover Valley* held that an agency could evaluate a project's traffic impacts based just on evening conditions, but only because traffic during the mornings was somewhat lighter. *Id.* at 245. Here, in contrast, the Project seeks to *increase* summer tourism in Squaw Valley (*see, e.g.*, AR 3:1746), thereby exacerbating impacts on summer transit. Indeed, as the record shows, visitors to Squaw are more willing to use transit in the summer, when they are not burdened with ski gear. *See* AR 10:5672. Accordingly, the County was required to analyze these impacts. *See* Guidelines § 15151.

Real Party next contends that the County responded to public comments requesting information about summer transit. RB 29. This is incorrect. The responses cited by Real Party never mention the requests for summer transit information. *See* AR 2:844; 7:4018; 8:4764.

To defend the County's improper deferral of transit mitigation, Real Party merely notes Squaw's obligation to pay a fee. RB 28. The issue, however, is not whether paying a fee is acceptable mitigation, but that the EIR here does not define what the fee would fund. In Real Party's two cited cases (*see* RB 28), the mitigation fee was dedicated to specifically defined programs. By contrast here, no program

[5] Petitioner did not concede that substantial evidence review applies to EIR's failure to disclose essential information regarding transit impacts. RB 25. This issue is reviewed de novo. PB 12.

even exists. *See* AR 4:2041. Indeed, Real Party admits that "[t]he EIR declined to speculate" as to how TART would use the mitigation funds. RB 28.

Furthermore, the EIR lacks any performance standards that would apply to a future mitigation program. AR 4:2041; 8:4385 (explaining that developer would commit to meet performance metrics *yet to be established by TART*). This error is fatal, as CEQA flatly prohibits deferral of mitigation in the absence of precise standards to ensure the mitigation's effectiveness. *See Save Panoche Valley v. San Benito County* (2013) 217 Cal.App.4th 503, 525 (approving deferred mitigation only because it set forth specific standards, including defined buffer-zone sizes for protecting species). The County's loose, open-ended transit mitigation does not come close to meeting this requirement.

IV. The County Never Recirculated the EIR or Reconsidered Feasible Mitigation After Drastically Altering the EIR's Analysis for Climate Change.

Real Party recognizes CEQA's standards for recirculation but attempts to avoid them by ignoring the FEIR's drastic change in analysis of the Project's climate impacts. In the end, Real Party cannot defend the County's failure to recirculate the EIR or the County's ineffective climate mitigation.

Real Party asserts that the DEIR concluded that "[e]missions above 1,100 MT CO_2 were significant." RB 30. This is false. For projects exceeding that level, the DEIR adopted a less stringent threshold: GHG impacts were significant if emissions exceeded a statewide "efficiency" metric—a metric that was later found inapplicable to the Project. *See* AR 4:2286. Real Party's claim that "[t]he EIR did not [] base its significance conclusions on this efficiency metric" (RB 30) is not credible.[6]

Because the FEIR replaced the DEIR's weak efficiency threshold with a more rigorous standard, it reached brand new conclusions on climate impacts, thus rendering the DEIR "fundamentally and basically inadequate." *See Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1993) 6 Cal.4th 1112, 1130. Under these circumstances, CEQA mandates recirculation. Guidelines § 15088.5(a)(4). Real Party cites no cases to the contrary. RB 30-31. Notably, *City of Long Beach v. City of Los Angeles* (2018) 19 Cal.App.5th 463, 491-94 did not involve a claim for recirculation. *Western*

[6] Real Party also claims that the FEIR's revisions to the Project's GHG emissions estimates were minor, and that the FEIR therefore could not have revealed new climate impacts. RB 31. But estimating GHG emissions is only the first step in a climate change analysis. *See* Guidelines § 15064.4.

Placer Citizens for an Agricultural & Rural Env't v. County of Placer (2006) 144 Cal.App.4th 890, 893, 905-06 involved a project redesign that, unlike the Squaw, did not implicate the project's mitigation.

Here, the error in the FEIR's climate analysis resulted in flawed mitigation for these impacts. The FEIR admits the Project would have significant climate impacts because it would exceed 1,100 MT per year. AR 7:3974-76. Nevertheless, for climate mitigation, the County only requires compliance with a "target or plan based on a substantiated linkage between the project … and statewide GHG reduction goals." AR 2:1064. Yet such a target or plan *does not currently exist*. AR 7:3974. Real Party points to a "suite of [other] reduction tools" (RB 31), but MM-16 requires the use of such tools only to demonstrate compliance with the currently non-existent state target or plan (AR 2:1064). Such illusory mitigation violates CEQA. PB 28; Guidelines § 15126.4(a)(1)-(2), (c).

V. Real Party Cannot Defend the Adequacy of the EIR's Noise Analysis, Which Addresses Impacts on Only One Sensitive Receptor While Ignoring Others Similarly Situated.

Real Party admits that this Project would involve a "large scale of construction occurring over a long period of time, in a 'relatively quiet mountain environment.'" RB 32. Nevertheless, Real Party protests that it would be "speculative" to provide detailed analysis of the construction noise impacts on any sensitive receptors except the Squaw Valley Academy. RB 34-35. This position is unsupportable.

Real Party first asserts that no one knows exactly *when* the construction would occur during the 25-year construction period. RB 33 ("a specific construction schedule does not exist"). But Petitioner never claimed that the EIR should include a construction schedule for the Project; instead, it argued that the EIR must disclose the *duration* of construction noise, *whenever* that construction occurs. PB 29. For example, the EIR could have readily disclosed the duration of noise during construction of the Mountain Adventure Center, the parking structures, and every other reasonably segregable component of the Project. The EIR's observation that no more than 20 percent of the Project's construction can occur in one year (RB 33) says nothing about actual impacts; the reader needs to know how long construction would occur at specific locations where it would disrupt the lives, work, study, and worship of those nearby. This information is an essential first step to any meaningful examination of noise impacts.

Indeed, the EIR provided that information, but only for construction near the Squaw Valley Academy. The EIR explained that employee housing proposed near the Academy would be constructed

"in modules" and that construction was "expected to last 24 to 30 months within [the Project's] 25-year timeframe." AR 7:4031. Real Party attempts to distinguish the Academy from the remaining sensitive receptors; it claims that this location has a "finite amount of proposed construction," thereby giving the County "greater certainty." RB 35. But *every* location that is part of the Project involves a finite amount of construction. *See* AR 3:1749-50 (describing maximum construction for Project components and general locations). Real Party never explains why the EIR could disclose the noise duration information for the Academy but not for other sensitive receptors in the Project area.

Real Party next tries to shrink the required noise analysis by arguing that the EIR can ignore construction noise impacts for any sensitive receptor beyond 50 feet. It seeks to legitimize this arbitrary limitation by proclaiming it a "standard practice." RB 34 (citing *Pfeiffer v. City of Sunnyvale City Council* (2011) 200 Cal.App.4th 1552, 1578). But Real Party points to no record evidence confirming the existence of such a "standard practice," and *Pfeiffer* did not consider appropriate distances for noise analyses. *See Ginns v. Savage* (1964) 61 Cal.2d 520, 524 fn.2 ("[A]n opinion is not authority for a proposition not therein considered."). Moreover, while the Academy is 250 feet from the nearest construction—five times greater than this supposed "standard practice"—the EIR reveals that it would be negatively impacted by construction noise. AR 7:4031. The EIR never explains why noise would not also impact other sensitive receptors located more than 50 feet from construction.[7] Once again, the EIR's analysis arbitrarily distinguishes between sensitive receptors that are similarly situated.

Crucially, Real Party ignores Petitioner's point that the EIR does not describe the Project's construction noise's impacts on residents' quality of life, speech, and health. PB 29. Real Party cites the EIR's general discussion of noise changes that a human can detect (AR 4:2068-69) and noise level descriptors (AR 4:2070), but this information does not explain how noise would *actually* impact people. Indeed, the only remotely relevant discussion cited by Real Party is a single, passing mention that nighttime construction could disrupt sleep. RB 34 (citing AR 4:2084). This reference is telling, but it says nothing about the impacts of the majority of Project noise, which would occur during the day. *Id*.

[7] Real Party accuses Petitioner of "ignoring" the FEIR's responses to comments at AR 2:849-50 and 68:40373-84. RB 34. Not so. Petitioner addressed both of these comments in its opening brief. *See* PB 31 (citing AR 2:849); PB 30 (citing AR 7:4031, which is identical to AR 68:40375, cited by RB at 34).

Real Party fails in attempting to distinguish *Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal.App.4th 1344 ("*Berkeley Jets*"). RB 34. Notably, it does not dispute the case's holding—that an EIR must sufficiently address noise impacts so that a reader may know if the noise will "merely inconvenience" people or "damn them." *Berkeley Jets*, 91 Cal.App.4th at 1371, 1382. Real Party also cites *Sierra Club v. Tahoe Regional Planning Agency* (E.D. Cal. 2013) 916 F.Supp.2d 1098, which it claims "distinguish[es] *Berkeley Jets*" and upheld a ski resort noise analysis. RB 34. However, *Sierra Club* is easily distinguishable because the noise analysis there both "describe[d] the effects noise increases have on humans" and "explain[ed] the impact the construction noise will have on residential homes." 916 F.Supp.2d at 1149. Here, the EIR does not contain such an analysis.

Finally, Real Party cannot defend the EIR's failure to identify adequate mitigation for the Project's construction noise impacts. Instead of responding, it merely restates the vague and undefined mitigation measures that Petitioner showed did not satisfy CEQA. RB 35; PB 30.[8] Real Party points to no record evidence indicating whether these measures could actually reduce noise impacts or why the County failed to include performance standards. Nor does Real Party explain why specific noise mitigation could be devised for the Squaw Valley Academy but not for other sensitive receptors in the Project area—yet another example of the EIR's disparate treatment of receptors similarly affected by noise. In short, the EIR violated CEQA by failing to identify specific, enforceable mitigation for the vast majority of sensitive receptors in the Project area. *CBE*, 184 Cal.App.4th at 93.

VI. Real Party Cites No Evidence Supporting the EIR's Refusal to Disclose the Olympic Basin's Subterranean Stream—an Omission that Real Party Concedes.

Whether the Olympic Valley Groundwater Basin is a subterranean stream is no trifling matter, as Real Party implies. RB 36. Because the Water Resources Control Board can strictly regulate subterranean streams, such a designation for the Basin could significantly impact the Project's water supply. PB 32. Real Party acknowledges this (RB 36, fn.12), but then dismisses the issue, accusing Petitioner of relying on "cherry-picked" and "conclusory" evidence about the Basin's water. RB 36-37.

In fact, Petitioner cited virtually *all* the evidence in the record describing the Olympic Basin's

[8] Real Party also mentions three other mitigation measures, but these are unrelated to construction noise and therefore irrelevant. *See* RB 34-35 (referencing Mitigation Measures 11-4b, 11-5, and 9-8).

characteristics. PB 33. Real Party identifies no evidence contradicting these descriptions, instead citing irrelevant sections of the County's water supply analyses, none of which show that the Basin's supplies consist of percolating groundwater and not a subterranean stream. RB 36 (citing AR 5:2875-6:3076; 3:1257-1467; 7:3993-4009; 31:17629-46). While Real Party cites evidence regarding recharge of the Basin (RB 37), this factor is irrelevant to identifying a subterranean stream (PB 33, fn.9).

Real Party also dismisses Dr. Myers' analysis as "devoid of evidence." RB 36. But Dr. Myers cited detailed facts drawn from expert studies prepared for Real Party's application, official state documents, and peer-reviewed scientific literature specifically demonstrating that the Basin's groundwater flow is a subterranean stream. *See, e.g.*, AR 39:22558-59 (interpreting studies of Basin groundwater and explaining that DWR Bulletin 118 supports finding of subterranean stream); 8:4469 (explaining that findings by Williams (2001) indicate presence of confined, impermeable subsurface channel). The fact that the Williams study was prepared for a different purpose (RB 36) is irrelevant; Williams' conclusions regarding impermeability and other basin characteristics demonstrating the presence of a subterranean stream (AR 8:4469) remain valid, and Real Party cites no contrary evidence. Dr. Myers' comprehensive analysis thus unquestionably qualifies as substantial evidence (§ 21080(e)(1)); it is entirely distinguishable from the vague and conclusory "expert" reports discussed in Real Party's cases. *See* RB 37-38 (citing *Rominger v. County of Colusa* (2014) 229 Cal.App.4th 690, 723 [expert letter lacking specifics]; *Clews Land & Livestock*, 19 Cal.App.5th at 194-95 [expert letter containing only "general observations"]; *Apartment Assn. of Greater Los Angeles v. City of Los Angeles* (2001) 90 Cal.App.4th 1162, 1176 [expert letter's assumptions not based on fact]).[9]

Real Party notes that the Department of Water Resources' current description of the Basin does not identify it as a subterranean stream (RB 37), but this is irrelevant. *All* groundwater in California is

[9] Real Party claims that "[t]he 'profiles and cross-sections' characterized by Dr. Myers as evidence of a subterranean" are not part of the record. RB 37. The point is specious. While this document was inadvertently omitted from the physical record prepared for this court, it is properly part of the administrative record. The document originates in a groundwater model report by Derrik Williams, prepared in June 2001 for West-Yost Associates and the Squaw Valley Public Service District. AR 8:4482. Because the document was readily accessible to the County (*see, e.g.*, AR 3:1397 [Project technical memorandum relying on Williams' 2001 report]), it did not need to be physically submitted to the County be part of the record. *See Consolidated Irrigation Dist. v. Superior Court* (2012) 205 Cal.App.4th 697, 724 (referenced document that is readily available to agency is part of record).

presumed to be percolating. *Arroyo Ditch & Water Co. v. Baldwin* (1909) 155 Cal. 280, 284. The Water Board can reclassify it when presented with appropriate evidence. *See N. Gualala Water Co. v. State Water Resources Control Bd.* (2006) 139 Cal.App.4th 1577, 1585. Here, Dr. Myers has set forth ample evidence indicating the Basin is a subterranean stream, and Real Party has cited none to the contrary.

Early in the process, Petitioner alerted the County to this important issue concerning the Project's water supply. AR 8:4616-17. As Real Party admits, the County "declined to engage" in the topic. RB 37. The Supreme Court recently explained: "[W]here comments from responsible experts … disclose new or conflicting data or opinions that the agency may not have fully evaluated the project …, these comments may not simply be ignored. *There must be good faith, reasoned analysis in response*." *Banning Ranch*, 2 Cal.5th at 940 (citations omitted). Here, by ignoring Dr. Myers' comments on an important subject, the County violated CEQA. *See The Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 202 Cal.App.4th 603, 616-17; *cf. Saltonstall v. City of Sacramento* (2015) 234 Cal.App.4th 549, 582-83 (upholding EIR that disclosed disagreement among experts).

VII. The County Never Undertook the Legally Mandated Analysis for Rejecting Environmentally Superior Project Alternatives.

Indisputably, the Project's massive development would have significant, unmitigated effects on historic resources, scenic vistas, traffic, noise levels, and climate change. AR 1:411-67. Accordingly, CEQA prohibits the County from approving the Project unless it finds that environmentally superior project alternatives are "infeasible." § 21002. Here, the County rejected the EIR's environmentally superior Project alternative (the reduced density alternative, or RDA), as well as two reduced-size alternatives offered by the public. Real Party contends that none of these alternatives would meet its financial or development objectives. But, as Petitioner explained, the County's findings violate CEQA because they (1) do not demonstrate, based on substantial evidence, the financial infeasibility of a reduced-size alternative, and (2) adopt an overly narrow view of the Project objectives. PB 35-37; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 735-37. Real Party's brief does not credibly defend these unlawful findings.

Financial Feasibility. Rather than confront Petitioner's arguments regarding financial feasibility, Real Party first attempts to avoid the issue by blaming Petitioners for submitting late comments

regarding the RDA's feasibility. RB 39-40. The argument is unfounded. In fact, the County and Real Party *withheld* the financial feasibility studies from the public until near the end of the process, despite the public's early and repeated requests for this information. *See, e.g.*, AR 38:22002-04, 22017, 22310; 39:22973; 41:23994. In any event, CEQA allows the public to submit comments on alternatives, or suggest new alternatives, until the close of the public hearing. § 21177(b); *Preservation Action Council v. City of San Jose* (2006) 141 Cal.App.4th 1336, 1349, fn. 8 ("*PAC*"). In spite of the County and Real Party's foot-dragging, the comments of Petitioner and others were timely.

Next, Real Party portrays Petitioner's financial argument as addressed only to the RDA's land costs. RB 40. Not so. As Petitioner explained, Real Party's consultant (EPS) overestimated *all* infrastructure costs for the RDA (PB 36), and Real Party concedes infrastructure costs formed the crux of the County's infeasibility finding. RB 39. Real Party claims that EPS "explained [that] infrastructure costs are largely fixed" regardless of the size of the Project. RB 40. But none of Real Party's citations provide any substantial evidence—that is, facts and "meaningful analysis"—to support this bare conclusion. *See Laurel Heights I*, 47 Cal.3d 376, 404-05.

Real Party claims that the "only way" to design the RDA is to include expensive structured parking. RB 40. But the record shows that EPS set up a straw man by assuming the need for such parking. By distributing development and parking structures at disparate locations throughout the property, the EIR's design for the RDA contrived to both increase infrastructure costs and decrease revenues, since homeowners disfavor unwelcoming parking garages near their homes.[10] AR 21:11911; 38:22020; 79:46591. The RDA's sprawling parking plan, moreover, flatly contradicts the project objective to "[p]rovide a compact development that minimizes the overall resort footprint." AR 4:2301. Real Party cites to a report by Goodwin consultants, whom they paid to "peer review" the EPS report (RB 39-40; AR 68:40232), but it adds no independent facts or analysis on this issue. AR 21:12307. Rather, it takes as given EPS' unsubstantiated assumptions about the distribution of infrastructure. *Id.*

Notably, Petitioner and others, including a member of the Squaw Municipal Advisory Council,

[10] A financial expert also pointed out that the EPS report relied on other faulty assumptions for the RDA. These included an inflation rate of .5% instead of a more realistic 2%, and an overly lengthy build-out time, which skewed the analysis against the RDA. AR 38:22021-22; *see also* AR 21:12307; 79:46591.

proposed two other reduced-size alternatives that did not require the construction of such high-cost infrastructure. AR 38:22040-47; 60:35389; 79:46589-96. Real Party offers after-the-fact excuses for why these two alternatives allegedly are not feasible (RB 40, fn. 16), but CEQA forbids such post-hoc justifications. The County must analyze the feasibility of the two reduced-sized alternatives, and make specific findings, *before* approving the Project. § 21081 (requiring specific infeasibility findings); *see also Cal. Clean Energy Com. v. City of Woodland* (2014) 225 Cal.App.4th 173, 205-06 (record failed to explain why alternative allowing 200,000 square feet of development was financially infeasible as compared to 340,000 square foot proposed project). Here, the County failed to undertake the required analysis or make the required findings.

Equally important, the courts have rejected similar agency findings relying on developers' unsupported statements. For example, in *PAC*, the court held that a developer's reference to market studies to support its proposed store size was not substantial evidence of financial infeasibility without "independent facts or analysis to support that claim." *PAC*, 141 Cal.App.4th at 1345-57; *see also Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 598-601 (developer's evidence of high cost of restoring structure not sufficient to show financial infeasibility). Real Party's cited cases (RB 41) are fully consistent with these holdings. *See The Flanders Foundation*, 202 Cal.App.4th at 621 (city properly relied on report that "extensively analyzed the local real estate rental market" in rejecting alternatives to sale of city-owned property); *Assn. of Irritated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1399-1401 (county properly relied on economic analysis showing negative economic return plus lender's statement that it would not finance the reduced-herd dairy); *San Franciscans Upholding the Downtown Plan v. City & County of San Francisco* (2002) 102 Cal.App.4th 656, 693-695 (city properly relied on detailed economic analyses with cost comparisons where nothing contradicted this "strong evidence" of infeasibility).

Here, the record includes no actual evidence comparable to that in Real Party's cited cases. Instead, Real Party offers only the unsupported, counterintuitive assertion that an alternative reducing development by 50% would require nearly as much infrastructure as the Project itself. It would not. *See* AR 38:22020; 79:46589-91.

Furthermore, even if one accepts the bloated infrastructure costs for the RDA, the record still

does not contain sufficient information to support the County's conclusion that the RDA is financially infeasible. PB 36. Under CEQA, "[t]he fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." *Citizens of Goleta Valley v. Bd. of Supervisors* (1988) 197 Cal.App.3d 1167, 1181 (fact that per unit costs rise with reduced size alternative is insufficient to demonstrate financial infeasibility). No such evidence exists in the present case. As one financial analyst explained, the record here does not contain even the most basic information necessary to determine financial feasibility, such as market data for the proposed residential sales prices and commercial rents, and data showing whether there is sufficient demand in the area to support the number of proposed units. AR 38:22003-04, 22017-23. Real Party ignores this hole in the needed evidence.

In sum, Real Party cites no substantial record evidence to support the County's critical finding that the RDA alternative was financially infeasible. Likewise, it does not dispute that the County made no findings to justify its rejection of the reduced-density alternatives offered by the public. These omissions—directly related to the fundamental issue of the Project's size in an environmentally sensitive area—violated CEQA. The Act requires full transparency on such an important issue. *See, e.g.*, *PAC*, 141 Cal.App.4th at 1356. As one appellate opinion explained, the courts cannot "countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed as to the environmental consequences of action by their public officials." *Planning & Conservation League v. Dept. of Water Resources* (2000) 83 Cal.App.4th 892, 904, 920.

Project Objectives. Real Party offers two reasons to support its claim that the RDA does not meet the Project objective of becoming a "world class" destination. RB 41. The record supports neither.

First, Real Party claims the RDA does not meet the "units-per-skiable-acreage" targets for "peer resorts." RB 41-42. Yet, Real Party admits that its conclusion rests entirely on the use of skiable acreage from *another* ski resort, Alpine Meadows (*id*.), that greatly inflated the denominator in the calculation of the RDA ratio. If Real Party had omitted Alpine's acreage, the RDA would have had a ratio of .37, which would exceed the Project's .33 target. RB 42; AR 21:11894; *see also* AR 79:46592 (even lower ratio acceptable). Real Party offers only a patently contrived reason for including Alpine's skiable

acreage: that Squaw and Alpine allegedly "serve as a single destination." RB 42. Yet during the relevant administrative proceedings, the County took the opposite position, insisting that the two resorts "serve different purposes and neither depends on the other in order to succeed." AR 8:4737. The County cannot have it both ways: it cannot declare that the resorts are separate in one part of its analysis, and then later combine them to provide the critical justification for skiable acreage "targets." Using facts in this inconsistent manner is a textbook example of arbitrary decisionmaking—and a violation of CEQA.

Second, Real Party claims the RDA is infeasible because the Project can achieve the status of a "world class" destination only if it includes a "mountain adventure center"—in other words, an indoor water park. RB 41. But the RDA includes a mountain adventure center, albeit of reduced size. AR 4:2324. The record supplies no evidence that a *90,000 square-foot* indoor water park is essential to achieve "world class" status. None of the successful resorts in this area even have such an "amenity," and the record reflects that Squaw Valley is already recognized as a "world class" resort, without *any* such additional, non-essential development. AR 38:22310; 39:22734 (noting that Squaw Valley is "an internationally renowned mountain resort" that was "[v]oted 2016 'Best Ski Resort' in North America by USA Today and 10 Best Readers' Choice").

Real Party is then left only with its generalized, subjective claims about project "viability." RB 41. But these claims are insufficient under CEQA. Absent independent corroborating evidence, a developer's self-serving statements about the need for a project of a particular size or character do not render a smaller-sized alternative infeasible. *See PAC*, 141 Cal.App.4th at 1357 (finding applicant's objectives "cannot be determinative of … feasibility"); *Uphold Our Heritage*, 147 Cal.App.4th at 602 (equating developer's proposed plans with feasibility "would render CEQA meaningless").

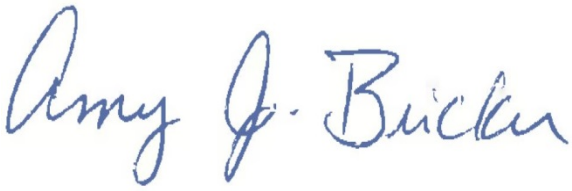
Finally, the cases cited by Real Party are distinguishable. In those cases, the administrative records contained clear evidence that the project alternative conflicted with the project's objectives. *See* RB 42. Here, because the record includes no substantial evidence that the RDA conflicted with the project objective of providing for a world class destination, the County's findings violated CEQA.

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that the Court issue a writ of mandate directing the County to vacate its approval of the Project and certification of the EIR.

DATED: March 30, 2018

SHUTE, MIHALY & WEINBERGER LLP



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PROOF OF SERVICE

Sierra Watch v. Placer County et al.
Case No. SCV0038777
[Related to Case No. SCV0038917]
Placer County Superior Court

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the City and County of San Francisco, State of California. My business address is 396 Hayes Street, San Francisco, California 94102.

On March 30, 2018, I served true copies of the following document(s) described as:

PETITIONER'S REPLY BRIEF

on the parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Shute, Mihaly & Weinberger LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent from e-mail address Larkin@smwlaw.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 30, 2018, at San Francisco, California.

Patricia Larkin

SERVICE LIST

Sierra Watch v. Placer County et al.
Case No. SCV0038777
[Related to Case No. SCV0038917]
Placer County Superior Court

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