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May 21, 2004

Uma Hinman
Planning Department
Nevada County Community Development Agency
950 Maidu Avenue
Nevada City, CA 95959

RE: Comments on Royal Gorge Lodge & Homesites Project
Draft Environmental Impact Report (SCH # 1987092809)

Dear Ms. Hinman:

We are writing on behalf of Serene Lakes Property Owners' Association (the "Association"), to express some of the Association's concerns regarding the legal adequacy of the Draft Environmental Impact Report (the "DEIR") for the Royal Gorge Lodge and Homesites at Summit Valley ("Project"), prepared for and circulated by Nevada County ("County").

By way of introduction, we note that EIRs are intended to serve a number of complementary public policy objectives. For example, "[t]he purpose of an [EIR] is to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project." (Pub. Resources Code, §§ 21061, 21002.1.) An EIR serves as an "environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." (*Laurel Heights Improvement Association v. Regents of the University of California* ("Laurel Heights I") (1988) 47 Cal.3d 376, 392.) In addition, an EIR "serves not only to protect the environment but also to demonstrate to the public that it is being protected." (CEQA Guidelines, § 15003, subd. (b).)¹

¹/ The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

The Royal Gorge DEIR falls far short of satisfying the substantive requirements for an adequate EIR. While not exhaustive, the following comments reflect a summary critique of the DEIR, and are offered in anticipation of the County's consideration of the Project. We sincerely hope that you will carefully consider each of our comments prior to completing the environmental review process for the Project.

I. The Project Description is Legally Inadequate

The project description should include the following: a map; a statement of project objectives; a general description of the project's technical, economic, and environmental characteristics; a statement describing the intended uses of the EIR; and a list of related environmental review and consultation requirements. (CEQA Guidelines, § 15124, subs. (a)-(d).)

As an initial matter, the DEIR does not address the number of daily visitors expected at the Project. Assuming the Project will generate 289 trips on a typical weekend (DEIR, p. 4.3-14), anywhere from 289 to 1,500 or more visitors can be expected, depending on the number of persons per vehicle. Please clarify.

In addition, please provide a construction schedule for planned Project construction. At this point, it is unclear when construction will commence, how many days per week construction activity will take place at the Project site, how many hours per day construction crews will operate, or how many months of construction activity is estimated for Project completion. Clearly this degree of definition is required for the County to analyze environmental impacts, in particular significant traffic impacts.

A. The regional and location maps do not identify the Project area

With regard to the Project map, the Guidelines provide as follows: "[t]he precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map." (CEQA Guidelines, § 15124, subd. (a).) The DEIR fails to satisfy this basic requirement. The regional location map and the vicinity map shown in Figure 3.0-1 and Figure 3.0-2 are illegible, and utterly fail to identify the location or boundaries of the Project.

Incidentally, we note that none of the maps printed in the DEIR is reproduced in a manner that allows the reader to discern its content. (See, e.g., Figure 3.0-5; Figure 4.3-1; Figure 4.3-2; Figure 4.3-3; Figure 4.3-4; Figure 4.3-5; Figure 6.0-1.) The DEIR should be revised to include legible maps.

B. The project objectives are narrowly defined

“A clearly written statement of the objectives will help the lead agency to develop a reasonable range of alternatives to evaluate in the EIR and will aid the decisionmakers in preparing findings or a statement of overriding considerations, if necessary.” (CEQA Guidelines, § 15126, subd. (b).)

The project description fails to define an adequate “statement of objectives sought by the proposed project.” (CEQA Guidelines, § 15124, subd. (b).) Specifically, the project objectives identified in the DEIR are very narrowly defined. The objectives appear to be more a description of the Project than a list of project objectives, and thus virtually ensure that no alternative project will meet applicant’s objectives.

Moreover, the DEIR identifies only the Project applicant’s objectives. The Project description should be revised to identify the County’s objectives as well.

C. The list of Responsible and Trustee agencies is incomplete

The statement describing the uses of the EIR must include, to the extent the lead agency knows such information, a list of the agencies expected to use the EIR in their decision making and a list of approvals for which the document will be used.” (CEQA Guidelines, § 15124, subds. (d)(1)(A), (d)(1)(B).)

The DEIR lists US Army Corps of Engineers, California Department of Fish and Game, State Water Resources Control Board, and Regional Water Quality Control Board, Central Region, as agencies with permitting authority over the Project. (DEIR, p. 3.0-17.) The DEIR also lists several agencies that submitted comment letters to the County, including: US Army Corps of Engineers; Caltrans District 3; Northern Sierra Air Quality Management District; County of Nevada Department of Transportation and Sanitation; County of Placer Planning Department; County of Placer Department of Public Works; Sierra Club; Nevada County Resource Conservation District; and Lawrence D. Sanders, for South Yuba River Citizens League. (DEIR, pp. 1.0-6 to 1.0-7.) Please identify which agencies are considered to be Responsible or Trustee agencies.

In addition, some agencies that are identified in the impact sections are not listed in the Project Description. (See, e.g., Impact 4.2.1 (requiring the Nevada County Department of Environmental Health, and California Department of Toxic Substances Control, to enforce and monitor mitigation measures 4.2.1a and 4.2.1b).) If these agencies have decision making authority over the project, they should be listed in the Project Description along with a discussion of the nature of their authority.

D. The County Has Impermissibly Piecemealed The Project

In *Laurel Heights I*, the California Supreme Court developed a precise legal test to determine when an environmental document must define its “project” to include either future phases of an initially approved land use or other foreseeable consequences of that use:

“an [environmental document] must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.”

(Laurel Heights Improvement Association v. Regents of the University of California (“Laurel Heights I”) (1988) 47 Cal.3d 376, 396.)

The DEIR states that no development on parcels C, D, and E is proposed “at this time.” (DEIR, p. 4.1-10.) This violates the specific request by Placer County for an accounting of the phases of the project. Are future phases of development planned? Is future development reasonably foreseeable? If future development on lots C, D, and E is a reasonably foreseeable consequence of the Project, and will change the scope of the environmental effects of the Project, the DEIR must treat these later land uses as part of the Project at issue, and must analyze the potential environmental impacts related thereto. Otherwise, lots C, D and E should not be considered part of the Project, the lots should remain as presently zoned, and the environmental impacts of development in those areas should be considered in a future EIR. Even if lots C, D, and E are considered part of the Project, however, there is no identifiable justification for re-zoning these areas. Indeed, the only re-zoning required for Project operations includes changing the lodge/ice rink area to REC, and the residential areas to R1-PD. Areas C, D, E, and F should not be re-zoned.

Moreover, the DEIR should discuss and analyze all other reasonably foreseeable consequences of the Project, such as other housing developments around the lake, or a planned Olympic Village.

II. The DEIR Must Identify Those Agencies Notified Or Consulted Regarding The DEIR

The County must consult with and request comments on the Draft EIR from Responsible Agencies, Trustee Agencies, agencies with jurisdiction by law over resources which may be affected by the Project, bordering cities or counties. Although the DEIR provides a list of agencies that commented on the letter, the DEIR should also

identify the agencies that were notified regarding the Project. (CEQA Guidelines, §§ 15083, 15086, 15087.)

III. The DEIR Fails To Demonstrate Consistency With Regional Plans

The DEIR should be revised to address Project consistency with the relevant Basin Plan, as well as consistency with mitigation monitoring plans or other plans relating to previously approved Projects such as Sugar Bowl and Soda Springs. We believe that the County has failed to enforce the Sugar Bowl Mitigation Monitoring Plan or the Sugar Bowl Traffic Management Plan; this failure has resulted in significant traffic and air quality impacts that must be considered when determining the baseline, as discussed in section IV(C)(1) below.

IV. The DEIR Fails To Adequately Analyze Several Potentially Significant Impacts

As an initial matter, the DEIR must discuss whether recreational vehicles such as motorized boats, Jet Skis, Ski-Doos and/or activities will be allowed on Van Norden lake during the spring and summer months, and whether motorized vehicles such as snowmobiles or All Terrain Vehicles will be allowed on the trails, in open spaces, or on the lake during winter months. We submit that such uses should be prohibited, and a condition of approval should be imposed upon the applicant to prohibit such uses. Moreover, if such uses are contemplated, the DEIR must be revised to analyze the potential impacts associated therewith (e.g., air impacts, noise impacts, traffic impacts, visual impacts).

In addition, the DEIR should address the important issue of providing affordable housing units, both locally and regionally. The Project proposes to develop 18 residential dwelling units and 4 employee housing units. (DEIR, p. 3.0-7.) Will any of these units provide much-needed affordable housing for County residents? In addition, will the Project provide for senior citizen or disabled housing, pursuant to the Second Unit Ordinance adopted by the Nevada County Board of Supervisors in 2002? If the Project does not intend to provide any such units, the DEIR should, at a minimum, analyze the local, regional and cumulative impacts of facilitating growth without providing for adequate housing.

A. Land Use

1. The lot sizes are inconsistent with the General Plan

A General Plan amendment is required to change the site's land use designation from FOR-40 to REC and RES. The RES designation allows lower density single family residential uses at densities at a minimum lot size of 1.5 acres per dwelling. The Project, however, will develop 19 lots that range in size from an acre to 1.38 acres, averaging slightly more than 1 acre per lot. (DEIR, p. 4.1-9.) The DEIR determines that clustering is encouraged by the General Plan and Zoning Ordinance, and finds that "clustering permits creation of parcels smaller than the minimum allowed by zoning." (DEIR, p. 4.1-9.) Please identify the authority for this finding. In addition, please explain why the Project must include 18 residential sites, rather than a reduced number of homesites with a minimum lot size of 1.5 acres, as required by the General Plan.

2. The Jobs-housing ratio does not account for temporary employees

The Project would increase the number of jobs in the area and would increase the need for housing. (DEIR, p. 4.1-11.) The DEIR determines that this impact is less than significant because the Project will provide four on-site employee housing units to offset the six full-time employees that will run the day lodge, ice rink, and other facilities. (*Ibid.*) The DEIR, however, fails to address the housing needs for part time or temporary employees. Indeed, the DEIR offers no indication of how many employees will actually be employed. Presumably, more than six employees will be needed to run the 6,404 square foot day lodge, ice rink, and other facilities. The DEIR should discuss the number of temporary, part time, or seasonal employees that will be employed by the Project, and should discuss the potential impacts of those employees (i.e., impacts to housing, traffic, air quality). In addition, the DEIR should consider possible mitigation to reduce the impact to housing. Suggested mitigation includes restricting staffing levels in the new development to levels that can be accommodated by the new employee housing.

Finally, the DEIR should discuss whether the jobs created in the area will provide jobs for local residents, or will provide employment for workers that drive in from other areas. In the past, Royal Gorge has not made a practice of hiring from the local workforce; rather, they have generally hired seasonal employees on temporary visas from Australia, New Zealand, and South Africa.

3. The DEIR does not state how many employees will be housed in the employee housing units

Although the DEIR provides that the Project will include 4 employee housing units (DEIR, p. 4.1-5), it does not specify how many employees will be housed in each unit. Currently, Royal Gorge houses many of its employees in rental units within the Serene Lakes development, and often house as many as 10 employees per residential unit. The DEIR should be revised to specify how many employees will be housed in the employee housing units, and should discuss the potential impacts of those employees (i.e., impacts to housing, traffic, air quality).

4. There are no assurances that the recreational facilities will be constructed

The DEIR states that the proposed homesites are proposed to raise money to pay for the recreational facilities. (DEIR, p. 3.0-7.) This raises several concerns. First, the applicant has not demonstrated that it has the funds to proceed with the Project without adding homesites. Second, will the recreational facilities be constructed before the residential lots will be sold? If not, what assurances will be given to ensure that the recreational facilities will actually be constructed after the lots are sold? Absent such assurances, the applicant may conceivably sell the lots without ever building the recreational facilities, thereby using the recreational aspects of the Project to facilitate a zoning change for a housing development.

5. The DEIR improperly determines that the proposed homesites will only be occupied part time

The DEIR presumes that the residential units “would most likely be second/vacation homes that would not be occupied on a permanent basis.” (DEIR, p. 4.1-8.) This assumption is unsubstantiated, and discounts the possibility that many, if not all, owners will rent out their units for much of the year.

Moreover, the impacts from rental units may actually be greater than impacts from owner-occupied units, as rental units typically attract larger groups. Larger groups create more impacts to traffic, air quality, land use, water, wastewater, solid waste, and public services, among others. These potential impacts must be addressed.

B. Human Health/Risk of Upset

Mitigation Measure 4.2.1b requires a remediation plan to be developed if hazardous materials are encountered on the site either prior to or during construction.

(DEIR, p. 4.2-10.) The timing and implementation, however, indicates that work will only be halted, and a remediation plan required, during construction. This mitigation measure should be revised to ensure that a hazardous materials investigation should be conducted *prior* to construction, and a remediation plan, if required, should be developed and, as appropriate, implemented, prior to the commencement of construction activities.

C. Transportation and Circulation

1. The baseline is not based on “existing conditions”

A Draft EIR “must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation (“NOP”) is published . . . This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.” (CEQA Guidelines, § 15125, subd. (a).)

The impacts on study area roadways were determined by measuring roadway conditions during AM and PM peak-hours for a peak winter weekend. (DEIR, p. 4.3-2.) Specifically, counts were conducted during the Martin Luther King, Jr. holiday weekend in 2002, and 2003 volumes were estimated by increasing the 2002 volumes by a 2 percent annual growth rate. (DEIR, pp. 4.3-5 to 4.3-6.) The DEIR should discuss the conditions present during this weekend (e.g., snow conditions, road conditions, highway closures, visibility). Traffic conditions as they exist on various weekends and holidays should have also been studied. The environmental setting cannot be determined by studying a single holiday weekend in 2002. Indeed, the number of cars may have dramatically changed throughout the winter season, due to economic, weather, or other conditions that warrant study. Pursuant to CEQA, the DEIR must analyze the impacts of the Project as compared with conditions as they existed at the time the NOP was published, not as compared with conditions as they existed on a single holiday weekend (CEQA Guidelines, § 15125, subd. (a).) The traffic analysis must therefore be revised to describe more accurate conditions, and should study traffic conditions over a period of several weekends and peak holidays, looking at traffic traveling to and from Soda Springs, Sugar Bowl, Donner Ski Ranch, and Royal Gorge. The revised analysis should also address the slope of Soda Springs Road, winter road conditions including road ice/snow and height of snow walls, and delays due to stopped or stalled railroad cars.

In addition, we believe the DEIR grossly underestimates the estimated growth volumes. As noted above, the DEIR estimated 2003 traffic volumes by increasing 2002 volumes by a 2% annual growth rate. With the recent boom in tubing at Soda Springs, the Soda Springs ski and tubing area, which is located across the street from the Project, has seen a dramatic increase in business. Moreover, Sugar Bowl Ski resort opened an

additional 500 car parking space during the 2004 season. During the 2004 ski season, both Soda Springs and Sugar Bowl have operated in excess of their parking capacities, which tends to indicate that growth rates are exceeding projected levels. Finally, additional residential development and the Ice Lakes Lodge in Serene Lakes have contributed to increased traffic volumes in the Project area. Please address these concerns.

Based upon the counts taken in 2002, the existing levels of service are allegedly adequate (LOS C or better) “so long as traffic control officers are used by Sugar Bowl.” (DEIR, p. 4.3-6.) Presumably, the DEIR is referring to traffic control implemented through the Sugar Bowl Traffic Management Plan. This plan requires traffic control officers at specified intersections during certain times and conditions. This TMP was circulated in 1993 for comments, and a revised draft was circulated in 2002; however, no final draft has ever been adopted. According to both Nevada County and Placer County, this plan remains in draft form. It is thus unclear how the TMP is funded or how it will be implemented. Moreover, the traffic control measures suggested by the TMP have not been used on a consistent basis, if at all, even during peak traffic hours. Residents in the area report that they rarely see traffic control officers stationed at any impacted intersections. Similarly, mitigation required by the Sugar Bowl Mitigation Monitoring Plan (such as charter buses, shuttle service, ski trains, and restricted ticket sales) is not being implemented. Thus, the baseline conditions cannot include measures contained in the TMP or the Mitigation Monitoring Plan, because these conditions are not being enforced and, indeed, are seemingly unenforceable. The conditions as they exist at the time the NOP was published do not include any existing traffic control measures. The DEIR must be revised to reflect the proper baseline conditions.

2. The allowable LOS is inconsistent with the General Plan

Pursuant to the General Plan, the minimum level of service allowable in the Rural Regions of the County shall be LOS C, except where the existing LOS is less than C. LOS shall be based on the typical highest peak hour of weekday traffic. Special events may be permitted which temporarily exceed this minimum level of service. (DEIR, p. 4.3-9.) The acceptable LOS for this Project should therefore be “C.” The DEIR, however, determines that “peak winter ski weekends are considered special events. Therefore, per County direction, the LOS threshold that applies to the study period is LOS E.” (DEIR, p. 4.3-9.) The DEIR’s standards of significance thus provide that a traffic impact will be considered significant if it degrades the LOS to a level below LOS E. (DEIR, p. 4.3-12.) The DEIR provides no evidence that winter ski weekends are special events. To the contrary, they are a predictable part of the County’s economy. It is therefore unclear how the County has given any “direction” to allow LOS E during winter weekends. Please explain how regularly occurring ski conditions are considered

“special events.” Please also explain the County’s conclusion that LOS E is an acceptable level of service during winter weekends.

Moreover, even if ski weekends are considered special events, the General Plan does not provide that intersections may operate at LOS E during these events. Rather, the General Plan simply provides that LOS C may be *temporarily* exceeded during special events. Winter-long conditions are hardly considered temporary. Indeed, Donner Pass Road will operate at LOS F for approximately 30 days per year. (DEIR, pp. 4.3-29 to 4.3-30.) The General Plan, therefore, does not set a threshold of LOS E for all peak winter ski weekends. Please explain the County’s rationale for determining that winter-long conditions are considered “temporary.” In addition, please explain the assumption that Donner Pass will operate at LOS F for only 30 days per year. This estimate seems unusually low — assuming 5 months of ski conditions, multiplied by 4 weekends, multiplied by 2 days per weekend, heavy traffic would impact Donner Pass Road on at least 40 days per year; adding holidays, Donner Pass Road would operate at unacceptable LOS around 50 days per year, which is nearly 2 months out of each year.

Impact 4.3.4 determines that the increase in peak hour traffic is less than significant. (DEIR, p. 4.3-28.) This determination is made in spite of the fact that Donner Pass Road will operate at LOS F for approximately 30 days per year. (DEIR, pp. 4.3-29 to 4.3-30.) According to the DEIR, LOS F is a “temporary” exceedence of the “County directed” LOS E, and is therefore an acceptable level for “temporary” “special events.” This conclusion is inconsistent with the General Plan’s requirement that traffic levels operate at LOS C.

Of equal concern, the estimated trip generation studies for the Project are based on a “typical weekend (Saturday) condition.” (DEIR, p. 4.3-14.) It is unclear whether this “typical” condition is during the summer, winter, or peak ski season. Notably, the DEIR states that regional traffic volumes are “consistently highest over the summer.” (DEIR, p. 4.3-1.) Thus, no meaningful information can be gleaned from the fact that the project will generate 289 trips on a “typical” weekend. Indeed, a traffic study that analyzes existing LOS during a peak ski weekend, and estimates Project-related traffic on a typical weekend during an undisclosed season, is necessarily askew. Moreover, the estimated trips generated by the Project are unrealistic. Table 4.3-4 incorrectly states that the total project generated vehicle trips during the PM peak hour is 20 trips, rather than 30 trips. In any event, a projection of 30 additional trips during the PM rush hour and 22 additional trips in the AM peak hour is unreasonably low. Please justify this estimate, particularly in light of the planned 32,000 square foot, 74-space parking facility. In addition, please explain how the lodge, ski facilities, and ice rink will maintain a profitable business with so few patrons visiting the facilities. Finally, please substantiate

the assumption that Donner Pass Road and Soda Springs Road can accommodate 1,100 vehicles per hour. (DEIR, p. 4.3-28.)

3. Fair share contributions are not tied to actual mitigation

Mitigation measure 4.3.1 requires the applicant to pay its “fair share” to the “Sugar Bowl Ski Area” for the provision of traffic control officers during peak ski weekends, such as holiday weekends and the Christmas holiday week. (DEIR, p. 4.3-27.)

According to CEQA case law, provided there is a “reasonable plan for mitigation” and contributions are “sufficiently tied to the actual mitigation” of the project’s impacts, a commitment to contribute a fair share to such a program discharges an agency’s mitigation duty under CEQA. (*Save Our Peninsula Com. v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 141; see also CEQA Guidelines, § 15130, subd. (a)(3) (requiring the project “to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact”).

To satisfy CEQA’s requirements, the DEIR must demonstrate that a reasonable plan for mitigation exists; such as a Capital Improvement Program, or a similar program ensuring that the funds will actually be used to mitigate traffic impacts. Moreover, the mitigation measure as written is not sufficiently tied to actual mitigation; as discussed above, Sugar Bowl has not been providing traffic control officers. Accordingly, the mitigation measure should be revised to specify the minimum or maximum number of traffic control officers to be provided, and should identify what intersection(s) would require these officers. In addition, the DEIR should identify an enforcing/monitoring entity and should require fines or other measures to be imposed in the event that the mitigation is not adequately provided.

4. The proposed mitigation measure is inadequate

Public Resources Code section 21002 requires agencies to adopt feasible mitigation measures in order to substantially lessen or avoid otherwise significant adverse environmental impacts. To effectuate this requirement, EIRs must set forth mitigation measures that decisionmakers can adopt at the findings stage of the process. (CEQA Guidelines, §§ 15126, subd. (e), 15126.4.)

The DEIR identifies potentially significant impacts to established LOS (impact 4.3.1), cumulatively significant impacts to study area intersections (impact 4.3.6), and cumulatively significant impacts to roadway capacity at study area segments (impact 4.3.5). To mitigate these impacts, the DEIR proposes only a single mitigation measure --

- Mitigation Measure 4.3.1 --- requiring the applicant to pay its fair share toward traffic control officers.

The DEIR should explain how traffic control officers will reduce the cumulative LOS F conditions (impact 4.3.6) that will exist at Donner Pass Road/Soda Springs Road, I-80 Westbound/Donner Pass Road, and I-80 Eastbound/Donner Pass. How will the mitigation be enforced? Where will the officers be located? When will the officers be stationed at intersections? Moreover, the DEIR should consider additional mitigation measures that would potentially reduce traffic. Possible mitigation measures include off-site parking; shuttles; trams; widening Donner Pass and Soda Springs Roads to effectively handle traffic volumes; enforcing the traffic control mitigation required by Sugar Bowl; installing traffic lights; creating a second entrance to the Project; maintaining Old Lincoln Highway for congestion and emergency relief; creating turn lanes at impacted intersections; and creating temporary car pool lanes during peak hours. Notably, the DEIR states that a signal is not warranted because it would only be necessary during peak hours. (DEIR, p. 4.3-26.) This does not adequately dispose of this possible mitigation; the signal could be programmed to operate during peak hours, such as the early morning and late afternoons of weekends and holidays.

The DEIR should also explain why no mitigation is available to reduce the cumulative impact to Donner Pass Road from Soda Springs Road to I-80 (impact 4.3-5). The DEIR provides that this roadway LOS would be reduced to LOS F for approximately 30 days per year (a number we believe to be grossly underestimated). Concluding that this is a “small number of days” to operate at LOS F, the DEIR finds that widening of the road is not warranted and no mitigation is feasible. The impact thus remains significant and unavoidable. (DEIR, p. 4.3-29.) Before reaching such a conclusion, the DEIR must explain how 1 to 2 months out of each year is considered a “small number of days,” and must justify the conclusion that road widening is not feasible. The DEIR should also consider additional mitigation measures, such as providing off-site parking; providing shuttles; providing trams; installing traffic lights; enforcing the traffic control mitigation required by Sugar Bowl; creating a second entrance to the Project; maintaining Old Lincoln Highway for congestion and emergency relief; creating turn lanes at impacted intersections; and creating temporary car pool lanes during peak hours.

5. The DEIR fails to analyze whether the transit system to Sugar Bowl can be extended to the Project

The Town of Truckee operates winter-only transit service along Donner Pass Road between downtown Truckee and the Sugar Bowl Ski Area. This route does not serve the Project area. (DEIR, p. 4.3-6.) This Project is located near the Sugar Bowl Ski Area;

seemingly, it would be feasible to extend the route to service the Project area. This possibility should be discussed, as it would reduce traffic impacts.

6. The traffic analysis does not analyze construction impacts

The DEIR's traffic analysis is limited to Project operations. No consideration is given to potential traffic impacts associated with construction of the 18 housing units, 4 employee housing units, ice rink and lodge. Notably, the DEIR analyzes noise impacts related to "truck traffic associated with transport of heavy material and equipment to and from the construction sites." The DEIR must be revised to address the traffic impacts from those same trucks, as well as any other construction-related vehicles.

Moreover, the DEIR does not analyze traffic impacts related to road improvements. The primary access to the Project site would be Old Lincoln Highway, which is currently a dirt road. A portion of this road will be improved to a 20-foot wide, asphalt paved road. (DEIR, p. 3.0-15.) This road intersects with Soda Springs Road, which meets Donner Pass Road. The DEIR does not analyze whether road construction will impact traffic at Soda Springs or Donner Pass Road. Although mitigation measure 4.3.1 requires traffic control officers during holiday weekends, similar mitigation should be required during construction.

Finally, the DEIR should discuss construction conditions; for example, will construction take place in winter or summer months? If construction activities will occur during winter or peak weekends, traffic impacts may increase.

7. The traffic analysis does not analyze traffic generated by special events

The DEIR should consider and analyze potential traffic impacts resulting from special events. In addition, please clarify whether special events are planned or anticipated in the Project area, or whether a condition of approval will restrict or prohibit such events.

8. The traffic analysis does not consider planned Amtrak services

The DEIR states that the day-lodge would "serve as a destination terminus for planned Amtrak services." (DEIR, p. 3.0-12.) The estimated completion date and location for the terminus, however, are not disclosed. Moreover, the traffic impacts associated with travel to and from the Amtrak station are not addressed.

Even if the future location is unknown, the DEIR should employ a reasonable worst case scenario approach and mitigate accordingly by using a performance standard, rather than deferring analysis of impacts because the extent of future operational uses is unknown. According to CEQA Guidelines section 15126.4, subdivision (a)(1)(B), “[f]ormulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards that would mitigate the significant effect of the project and which may be accomplished in more than one specified way.” As the court in *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028, explained: “for the kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process . . . the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval.” (*Id.*, at p. 1028.)

The DEIR should be revised to include a discussion of the planned Amtrak station, the associated parking facility, if any, and the traffic impacts associated therewith. Absent such revision, the County will effectively “piecemeal” the Project by failing to analyze a major component of the Project --- the Amtrak station --- along with the rest of the Royal Gorge Project.

9. The DEIR should analyze impacts created by restricting or blocking access to public roads, trails, or open space

The DEIR should address impacts associated with road or trail blockages. For example, the DEIR should discuss the following issues:

- Each year, at the end of the ski season, Royal Gorge has placed cones at the end of Pahatsi near Hillside in order to prevent traffic from coming down. Pahatsi is a public road, which continues onto the public trail that leads to Cascade Lakes. Royal Gorge has made a practice of dumping snow berms to block access to this trail.
- Access from Soda Springs Road to the Old Lincoln Highway (across from Soda Springs Ski area) has a large open area that is used by Soda Springs as an overflow parking area. The entrance from Soda Springs Road to this area, as well as Old Lincoln Highway, is roped off during the winter to prevent use of the large open area. This blockage prevents access to Old Lincoln Highway, which is a popular cross country ski trail in the winter, and a biking trail in the summer.

The DEIR should discuss what measures the Project will implement to ensure adequate access to public roads and trail ways. The DEIR should consider possible

mitigation measures to reduce potential impacts, such as: (1) providing assurances that Old Lincoln Highway, even after improvements, is open to the public and not restricted or blocked; (2) requiring snow removal vehicles to dump snow on the sides of the roads, or to haul the snow to remote locations, in order to ensure that access to roadways or public trails is not blocked.

10. The DEIR should analyze traffic impacts from trips traveled between the existing Summit Lodge and the new lodge

The majority of trails in Royal Gorge are located near the existing Summit Lodge. Access from the new lodge to the major trails via cross country skiing would require skiers to travel a long distance around the Serene Lakes subdivision. It is likely that a number of skiers would drive between the new lodge and Summit Station to reduce the ski miles traveled. The DEIR should consider the traffic impact from these extra trips. The DEIR should also consider possible mitigation, including a shuttle bus between the Summit Lodge and the new lodge.

In addition, the DEIR implies that the Project will create an improved secondary access to Sugar Bowl. (DEIR, p. 4.1-5.) The improvement to Old Lincoln Highway, however, only extends part way across Van Norden Meadow, and then reverts to the existing dirt road. The dirt road is impassible in the winter, and is insufficient in terms of grading and capacity to be considered a secondary road during summer months. At best, the road could be used in emergency situations during the summer. The DEIR should so clarify.

11. The DEIR should analyze potential impacts relating to the railroad crossing

The DEIR states that the Project will generate an additional 289 vehicle trips per day, a number we believe to be grossly underestimated. (DEIR, p. 4.3-14.) In addition, truck traffic transporting heavy materials and equipment to and from the construction will traverse the Project area and service roads. (DEIR, p. 4.4-17.) When entering and exiting the Project area, these cars and trucks will cross the railroad tracks that run across Soda Springs Road. The existing railroad crossing is in poor condition, and will be adversely impacted by the increased traffic, particularly the heavy construction trucks. The DEIR should analyze this potential impact. The DEIR should also consider possible mitigation measures, such as replacing the existing crossing with a new crossing, or contributing a fair share toward funding such improvement.

In addition, the DEIR should analyze the increased traffic impacts that will potentially occur during times that a train is crossing or blocking access to and from the

Project area. The line of cars that backs up during a crossing slows traffic and causes delay; presumably, this impact will be exacerbated by increased car and truck traffic.

D. Noise

1. The DEIR does not analyze noise impacts from the planned Amtrak station

The DEIR states that the day-lodge would “serve as a destination terminus for planned Amtrak services.” (DEIR, p. 3.0-12.) The location of this terminus, and proximity to planned and existing uses, is not disclosed. Moreover, the noise impacts associated with the planned Amtrak terminal are not addressed. Rather, the DEIR assumes that future railroad operations would be similar to existing operations. This assumption does not account for the planned Amtrak service.

Even if the future terminus is unknown, the DEIR should employ a reasonable worst case scenario approach and mitigate accordingly by using a performance standard, rather than deferring analysis of impacts because the extent of future operational uses is unknown. According to CEQA Guidelines section 15126.4, subdivision (a)(1)(B), “[f]ormulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards that would mitigate the significant effect of the project and which may be accomplished in more than one specified way.” As the court in *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028, explained: “for the kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process . . . the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval.” (*Id.*, at p. 1028.)

2. The DEIR does not properly analyze noise from the ice skating rink

The DEIR does not analyze the noise resulting from human activity, because “the hours of operation of the ice rink are not known at this time.” (DEIR, p. 4.4-20.) Rather than deferring analysis of impacts because the extent of future operational uses is unknown, however, the DEIR should employ a reasonable worst case scenario approach and mitigate accordingly by using a performance standard. According to CEQA Guidelines section 15126.4, subdivision (a)(1)(B), “[f]ormulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards that would mitigate the significant effect of the project and which may be accomplished in more than one specified way.” As the court in *Sacramento Old*

City Association v. City Council of Sacramento (1991) 229 Cal.App.3d 1011, 1028, explained: “for the kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process . . . the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval.” (*Id.*, at p. 1028.)

The DEIR should clarify the hours of operation for the ice rink. It should also specify whether any special events will be allowed on weekends, holiday, or other identified times, or whether a condition of approval will restrict or prohibit such events.

In addition, although the DEIR states that the ice rink is expected to generate noise from the chillers, the zamboni, and the public address system, the DEIR only provides mitigation for the noise generated by the chillers and the zamboni. (DEIR, pp. 4.4-18, 4.4-20.) Mitigation measures that would reduce the impacts from the public address (“PA”) system should be considered and analyzed. Possible mitigation includes restricting the hours of operation for the PA system, prohibiting music being played over the PA system, or restricting use of the PA system to emergency use only.

E. Air Quality

1. The DEIR does not properly analyze total impacts from stationary sources and vehicles

The DEIR must analyze the totality of vehicular and stationary emissions if the impacts will occur at the same time. Although Table 4.5-5 shows vehicle and stationary emissions for ozone precursors and PM-10, it does not include air impacts from the propane delivery trucks or from the train/planned Amtrak terminus. Moreover, the Table includes “wood burning” as an “operational emission,” yet “wood smoke” is analyzed as a category distinct from operational emissions. In sum, it is unclear which stationary and vehicle impacts are being analyzed under project operations. It is equally unclear whether the totality of these impacts have been properly analyzed.

The key appellate decision on point is *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 712-718. In that case, the petitioners sought to set aside the respondent city’s approval of a “site plan review” for a proposed coal-fired cogeneration power plant that would provide steam to an aging tire manufacturing plant while selling electricity to a private energy utility. They argued, among other things, that the city’s EIR wrongly concluded that the project’s air quality effects would be less than significant. The court agreed, reasoning that the city had wrongly assumed that, simply because the project applicant had obtained permits from other agencies concerned only with the plant’s on-site (stationary source) emissions, the city could therefore

automatically conclude that the overall project impacts on air quality (including impacts from vehicle emissions) were less than significant.

At the time, CEQA Guidelines section 15064 contained language stating that “[i]f an air emission . . . meets the existing standard for a particular pollutant, the Lead Agency may presume that the emission . . . of the pollutant will not be a significant effect on the environment.” The city in *Kings County Farm Bureau* erred by failing to understand that, regardless of whether stationary sources will comply with standards or limitations imposed by air pollution control districts, CEQA requires the lead agency to examine the whole project, which in that case included truck and train traffic resulting in sizeable secondary emissions of various air pollutants. (221 Cal.App.3d at pp. 712-718.) The city, in other words, had failed to aggregate both vehicular and stationary source emissions in determining whether the project, as a whole, would cause significant air quality impacts. (*Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, 1453-1455 is similar.)

2. The estimated reduction in air pollution should be quantified

The DEIR states that implementation of the identified mitigation measures will reduce air quality impacts to less than significant levels. (DEIR, pp. 4.5-7 to 4.5-10.) The DEIR should be revised to include a “quantitative, comparative analysis” of the estimated reductions. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 733-734.)

3. The DEIR fails to adequately mitigate construction emissions

a. The “alternatives” to open burning are not feasible

Mitigation Measure 4.5.4a requires that “alternatives to open burning of vegetative material on the project site shall be used unless deemed infeasible by the NSAQMD. Suitable alternatives are chipping, mulching, or conversion to biomass fuel.” (DEIR, p. 4.5-8.) As an initial matter, please explain what materials would need to be burned, chipped, or mulched, when this process is expected to take place, and for what duration.

Secondly, the proposed mitigation measure may be infeasible. The DEIR does not indicate that the project would eliminate any vegetative material that would typically be burned by selling such material to an identified mulching or composting facility. Therefore, composting does not appear to be a viable alternative. Other than composting, only two alternatives to burning are considered today to be potentially viable. Neither of these alternatives is as inexpensive as burning, however, and both of the alternatives are becoming increasingly infeasible.

The first alternative, chipping, is the process of breaking down the agricultural waste and incorporating it into the soil. This is often not considered a viable option due to the cost of equipment and fuel to work the wood chips into the soil, which typically runs \$200 to \$300 per acre, plus additional equipment charges. The total diesel fuel used in a chipping operation per hour is approximately 60 to 70 gallons, which adds additional costs and adversely impacts air quality. In addition to the costs, the number of chippers is diminishing as compared with prior years. Currently, assuming a chipper is located near the Project area, it would likely cost between \$12,500 and \$20,000 to remove and chip a 50-acre parcel. These costs are fairly expensive, and can render the process infeasible.

The second alternative is biomass facilities. These facilities take agricultural waste, mix it with other waste, and turn it into energy. Although an innovative technology, in recent years the number of biomass facilities has been rapidly decreasing due to the generally depressed agricultural economy and the high cost of waste disposal other than burning. The lack of available facilities has greatly reduced the viability of this alternative.

The DEIR should be revised to analyze the air impacts that would result from open burning of vegetative material on the Project site in the event the proposed mitigation measures prove infeasible. In addition, as noted above, the DEIR should analyze the potential air quality impacts from the diesel fueled chippers.

b. The DEIR does not address the efficacy of vehicle and equipment mitigation

Mitigation Measure 4.5.4b lists “acceptable options” for reducing emissions. There is no discussion, however, regarding the efficacy of mitigation measures. An agency should not rely on a mitigation measure of unknown efficacy in concluding that a significant impact will be mitigated to a less than significant level. The EIR, therefore, does not provide enough information on the effectiveness of this particular mitigation measure.

In addition, the DEIR concludes that this mitigation measure would “substantially reduce” PM-10 emissions to below the NSAQMD Level B threshold. Similarly, the DEIR states that, after mitigation, Nox emissions would remain “above the level B threshold but below the Level C threshold. (DEIR, p. 4.5-10.) As noted above, these conclusions lack any supporting evidence, much less the “substantial evidence” required under CEQA. The DEIR should therefore be revised to quantify the estimated reductions. Moreover, the substantial evidence must support a conclusion that mitigation measures will actually reduce or avoid identified significant impacts. Some jurisdictions

require PM-10 Mitigation Plans to reduce PM-10 emissions sufficient to achieve the state and federal ambient air quality standards for PM-10. Such Plans require the Planning Director, in consultation with the Air District, to establish that the applicant's proposed plan for reducing PM-10 in the project vicinity is sufficient to comply with the District's regulations, and may further require that the applicant provide to the Planning Director an annual report demonstrating that the provisions of the PM-10 Mitigation Plan continue to be met. The DEIR should be revised to include a requirement for similar plans to ensure adequate mitigation during both construction and operation.

4. The air quality analysis does not analyze potential impacts from road maintenance and snow removal

The Project will improve Old Lincoln Highway to approximately one mile through the Project site. The road extension would require roadway maintenance and snow removal services. (DEIR, p. 4.10-34.) The air quality impacts related to snow removal equipment and road maintenance should be analyzed in the DEIR.

F. Hydrology and Water Quality

1. Implementing BMPs does not ensure adequate mitigation of surface runoff and flooding impacts

The DEIR assumes that the implementation of BMPs will eliminate potentially significant impacts to surface water runoff. (DEIR, pp. 4.6-8 to 4.6-11.) This assumption requires further explanation.

The DEIR states that the Regional Board does not have monitoring data for Upper Castle Creek or South Yuba River. (DEIR, p. 4.6-1.) As an initial matter, we recommend that a baseline surface water study be prepared to determine the existing physical environmental conditions in the vicinity of the project. (CEQA Guidelines, § 15125, subd. (a).) In the absence of water quality data on the receiving waters, a leap of faith is required to conclude that stormwater impacts on water quality will be rendered less-than-significant by the adoption of policies requiring monitoring and best management practices ("BMPs"). In the absence of data on the receiving waters, it is not clear how much assimilative capacity a particular waterway has before the water quality objectives for various constituents are exceeded. Moreover, even the use of BMPs may not necessarily prevent some amounts of grease, sediment, and heavy metals from finding their way into aquatic habitat.

Another reason for skepticism regarding the effectiveness of BMPs and monitoring to fully protect water quality is the fact that water quality objectives, as

promulgated by Regional Boards in Basin Plans, are often based in part on economic considerations, and thus do not necessarily represent the optimal water quality conditions for aquatic life. (See Wat. Code, § 13241, subd. (d) (requires regional boards to account for “economic considerations” in setting water quality objectives).) Perhaps in recognition that Regional Boards do not necessarily always favor environmental over economic considerations, the Legislature has authorized cities and counties to adopt and enforce water quality regulations stricter than those imposed by the Regional Boards. (Wat. Code, § 13002, subd. (a).)

Thus, the mere fact that Regional Boards regulate water quality, and are now regulating stormwater in some instances, does not mean that water quality is per se fully protected. Moreover, since a Court of Appeal decision has held that a city or county must at least consider exercising its police power to protect wetlands, despite the Corps’s statutory obligation to do so as well, the County should exercise its police power to protect water quality. (See *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal.App.3d 433, 443, fn. 8.)

In light of these considerations, the DEIR should either explain why pollutant levels in the runoff from the Project site are likely to be so low that they will not exceed or put a significant dent in water’s assimilative capacity or, in the absence of empirical data, the DEIR should treat impacts on water quality as potentially significant, despite state-of-the-art BMPs. In addition, the effectiveness of many of the “state-of-the-art” BMPs is questionable. For example, one of the BMPs requires installation of hay bales. (DEIR, p. 4.6-10.) In many communities, the use of hay bales for sediment control is now banned, because of the high likelihood of introducing the seeds of noxious weeds into a fragile ecological community.

2. The DEIR must identify the pre-construction level applied to the SWPP

The SWPP does not require permittees to prevent sediment from leaving the site; rather, they must prevent “a net increase of sediment load in storm water discharge relative to preconstruction levels.” (General Permit, Section A.8 (emphasis added); Weyrich, 2003 Cal. ENV LEXIS 10, at *9.) Determining whether the net sediment load exceeds preconstruction levels, however, requires proof or knowledge of preconstruction conditions. The DEIR does not provide evidence of preconstruction conditions. Absent such information, the decisionmakers cannot determine whether the Project would result in a net increase of sediment load.

3. The impacts to groundwater resources are not adequately analyzed

At the beginning of the “Groundwater Resources” section, the DEIR states that “[g]roundwater is not considered a significant source of water in the project area. The groundwater level will rise and fall with the spring snowmelt.” (DEIR, p. 4.6-2.) The DEIR further provides that “groundwater moves primarily through fractures in the hard rock, with some water probably moving along the contact between the thin layers of alluvium, colluvium and hard rock.” (DEIR, p. 4.6-3.) After a cursory discussion, the DEIR concludes that “[n]o significant impacts on groundwater quality are anticipated.” (DEIR, p. 4.6-11.)

This “analysis” fails to address the fact that the project area, specifically in several of the single family homesites, is a low lying ecotone where the meadow and forest communities meet. Parts of this ecotone are very wet. The DEIR fails to discuss the fact that such areas are important for groundwater and surface water interaction. Many of the homesites are very close to the wetlands, and some appear to have wetlands within the proposed homesite boundaries. The reason the vegetation changes from forest to meadow in these sites is that the groundwater during the growing season is high, in some instances higher than “within 2 feet of the ground surface.” (DEIR, p. 4.6-3.)

The DEIR should address, at a minimum, the following questions: (1) has a qualified wetlands scientist mapped all the wetlands in the project area? (2) has the depth to groundwater actually been measured in each of the building lots during the start of the growing season? (3) at what scale were wetlands mapped, and where can the map be viewed? In many communities, low lying land with high ground water during the growing season is held to be unsuitable for development.

Moreover, the margin of a wetland is referred to as a variable source area for surface water. In the wet periods of Spring and early Summer (often through late June or early July), most of the water from melting snow is conveyed down hillslopes as “throughflow” underground until it surfaces in the “discharge zone” of a stream or wetland. In the case of the ponds and wetlands of Van Norden Meadow, this kind of groundwater is indeed “a significant source of water in the project area.” The DEIR should be revised accordingly.

The installation of water and sewer pipes, as well as construction of paved roads to the homesites, will in many instances intercept the high groundwater during the spring and early summer. In like manner, excavating footings for homes will intercept groundwater, bringing it to the surface, where it can flow through the unvegetated construction site and downslope into the wetland and pond. When groundwater is

brought to the surface in this way, it often carries nutrients, sediments, oil and grease, and other pollutants into the surface water. The filtration effect of the flow through the ground can be lost or reversed. On some lots, the soil will be so wet that contractors may want to add fill before building. Finally, future homeowners may insist on heavy spraying of insecticides, because of the high population of mosquitoes in the ecotone. The DEIR should be revised to discuss each of these potential impacts.

4. The impacts to surface runoff are not adequately analyzed

The DEIR admits that the building of roads, the grading of building sites, the paving of parking areas and the increase in surface stormwater runoff can have a “potentially significant impact.” However, Table 4.6-2 states repeatedly that the “clustered development” and “retention of the existing drainage patterns” will not only prevent flood hazards but also reduce to acceptable levels the potential point and non-point source pollution to ground and surface waters.” (DEIR, p. 4.6-6.) Please explain this contradiction.

As noted in the discussion of groundwater and surface water interaction above, the existing drainage patterns will probably be disrupted and not retained. In addition to interception of high groundwater, the development will also alter the surface water drainage system which consists of several small creeks that flow from north to south under the Lincoln Highway and out to the wetland. These creeks range in size from the sizeable Upper Castle Creek, which passes under a major bridge and flows into the meadow just west of the proposed sites of the Lodge and large parking lot, to four or five smaller creeks passing through culverts under the old road. These potential impacts should be analyzed in the DEIR.

In addition, Table 4.6-2 states that “any runoff from impervious surfaces would be directed towards natural or improved drainage channels.” (DEIR, p. 4.6-5.) Unfortunately, this statement contradicts the statement that the project would protect water quality by retaining existing drainage patterns. (*Ibid.*) In natural drainage systems, approximately 95% of snowmelt and rain water infiltrates into the soil and flows toward the wetland as groundwater. The construction of many acres of rooftops, paved roads, driveways and parking lots creates surface runoff that is unnatural and usually a source of non-point water pollution. By directing this runoff “towards natural or improved drainage channels,” the project will increase the amount of water flowing in natural channels, causing increased erosive force, destabilization of the geomorphic balance of the channel, and increased erosion and sedimentation downstream. The DEIR should be revised to analyze this potential impact.

5. The DEIR's analysis of the cumulative impact to water quality is inadequate

Impact 4.6.4 states that “[i]mplementation of the proposed project would result in impacts to drainage patterns and surface water quality. This is considered a less than significant impact.” (DEIR, p. 4.6-12.) This cumulative impact analysis is woefully inadequate. It is apparently based on the earlier analysis in sections 4.6.2 and 4.6.3, which in every case states that all water quality impacts could be successfully mitigated.

On page 4.6-8, the DEIR states that a preliminary drainage report analyzed the impact of the development of over 30 acres of undeveloped land by predicting the impacts of rainstorms pre- and post-development. By estimating the impact for a larger area (over 220 acres) the analysis shows only a 3% increase in stormflows in a 10 year and 100 year storm. The next sentence reads: “The increase in stormwater runoff as a result of development of the project represents a small contribution to the entire Van Norden/South Yuba River watershed.” Such a statement ignores the basic principle of both nonpoint source pollution and cumulative watershed effects analysis. This principle is that “small” impacts add up, and projects like this must be analyzed for their impact when combined with the impacts of all other projects in the watershed, including the expansion of Sugar Bowl, the impacts of other ski areas, of the railroad, the interstate, and those of reasonably foreseeable future projects, such as other expansions of the facilities at Royal Gorge. The management of Royal Gorge has stated for years that it wants to eventually build an Olympic Park, that will have ski lifts, luge runs, ski jumps and additional lodging and parking facilities. There is also now word that hundreds of acres of private land adjacent to Royal Gorge in Placer county will soon be proposed for development. None of these other projects and impacts are seriously considered; this deficiency requires revision and recirculation of the DEIR.

G. Geology and Soils

The Project setting inadequately describes the soils at the site. (DEIR, p. 4.7-1.) The DEIR should be revised to provide a better description of what types of soil overlay the bedrock, and to identify the origin of the soil and the general engineering characteristics of the soil. These aspects control the response of the soil to grading (including erosion), applied foundation loads, and earthquake effects. The explanation provided on page 4.7-4 of the DEIR fails to address any of these issues, and should be revised accordingly. Similarly, Mitigation Measure 4.7.1 should require that the above issues be addressed in the geotechnical subsurface investigation report.

H. Biological Resources

1. The DEIR fails to analyze impacts to ecotones and wildlife movement corridors

The DEIR states that “wildlife movement corridors are considered a sensitive resource by the CDFG and Nevada County.” Immediately thereafter, the DEIR acknowledges that “the drier edges of the meadow and forest fringes in the proposed project site have the potential to function as movement corridors.” The DEIR concludes, however, that “given the extent of open space preservation in this area and low project intensity, these resources would most likely not be adversely affected by the proposed project.” (DEIR, p. 4.8-14.)

This analysis fails to mention that “the edges of the meadow and forest fringes” are extremely valuable in their own right and are known to ecologists as “ecotones.” These ecotones are being severely impacted by the location of the 18 residential homesites that are proposed to run like a necklace on the south side (meadow side) of the old Lincoln highway. The homesites, once developed, will destroy the valuable habitat and feeding areas of the forest edge for over a half mile along the wet margin of the meadow.

In addition to failing to mention the lost ecotone values, the DEIR fails to note that the residential homesites will create discontinuity in major Wildlife Movement Corridors which run both east and west, as well as north and south, along the crest of the Sierra.

The homesites will serve as a barrier at a crucial crossroads for wildlife. Maps of active game trails on Donner Summit show the main north-south game trail from the Onion Creek old growth stand and the Serena Creek drainage to the Boreal Ridge old growth stand passes through the exact location of the proposed homesites, just to the west of the Norden railroad showsheds. For animals that must negotiate around ski areas, subdivisions, railroad yards, and freeways, the Van Norden meadow and wetland serves as a vital refuge and source of food. The value of the wetland for habitat includes the value of the ecotone surrounding it. The nexus of the movement corridor, the wetland, and the ecotone make the location of single family homes along the south side of the Lincoln Highway an extreme impact on a “sensitive resource.” It must be addressed.

2. “Clustering development” will not adequately protect wildlife

The DEIR notes that the General Plan requires development to protect environmentally sensitive resources. As noted above, Wildlife Movement Corridors, including meadow edges and forest fringes, are regarded by Nevada County as sensitive

resources. In Table 4.8-2, the DEIR states that sensitive areas will be avoided. It also states that this will be accomplished through “clustering development,” so that “no net loss of habitat would result.” The DEIR further states in “Impact 4.8.3” that impacts to wildlife movement are less than significant.

The DEIR apparently asserts that putting in sewer and power and DSPUD water lines and building homes for approximately 2/3 of a mile in a linear pattern along the Lincoln Highway is “clustering development.” To the wildlife, this disturbance will clearly be a barrier to east-west and north-south migration. It will also be the destruction of a major ecological resource of 2/3 of a mile of rare ecotone, seasonally very wet, with small and large streams flowing across it into the wetlands.

The DEIR fails to consider the alternative that housing units could be clustered near the day lodge, on both sides of the Lincoln Highway. These units could be condos and/or hotel units. They could be placed within 250 yards of the day lodge, with plowed walkways and ski trails connecting the units. The impact of keeping the housing units off the edge of the meadow, except within 250 yards of the day lodge, would be immeasurably less than stringing houses nearly half way along the north edge of the meadow. This alternative should be considered.

3. The biological surveys are inadequate

Foothill Associates surveyed the Project site on October 31, 2002 (DEIR, p. 4.8-23), a time of year when most, if not all, migratory birds have passed through the area, and seasonal plant species are dormant. A more comprehensive inventory should be conducted on multiple days and at multiple times during the summer season, when the animals are present and active.

I. Cultural Resources

The DEIR does not adequately analyze the potential impacts to American migratory paths, the “Forlorn Hope” paths, or the Emigrant Trail. Additional studies should be done to analyze the potential Project related impacts on local, site specific sites in the Project area.

J. Public Services and Utilities

1. The DEIR does not consider the total impact to fire protection and emergency medical service

The DEIR concludes that no additional fire protection or emergency medical services are required to service a new project population of approximately 44 seasonal residents and six full-time equivalent employees. (DEIR, p. 4.10-2.) The DEIR does not, however, consider the additional demand that hundreds or thousands of ice skaters, cross country skiers, and lodge patrons will potentially place on emergency services. The existing area currently has six cross country ski runs. (DEIR, p. 3.0-15.) In addition to the residential units, the proposed project will add more ski runs, a day lodge, food services, and an ice rink. The Project area is a recreational destination, and will bring skiers, skaters, and other outdoor enthusiasts to the facilities. The DEIR should therefore consider the potential burden these persons will place on emergency services.

In addition, the DEIR should address safety issues relating to the fact that, during a train crossing, no emergency vehicles can reach the site and the Project is virtually severed from emergency services. Similar safety issues arise during peak traffic hours, when it would be extremely difficult for an emergency vehicle to service the site. The DEIR should therefore analyze a potential on-site location for emergency services.

Finally, the DEIR improperly states that the DSFD Station 82 in Serene Lakes is “staffed.” (DEIR, p. 4.10-1.) In fact, this is an unstaffed station; volunteers do not work on a daily basis. Moreover, the DSPUD fire and emergency services may be absorbed into the Truckee Fire District, and the status of the staffing, or continued existence, of the stations on Sherrit Lane and Serene Lakes is unknown. Please address these concerns.

2. The DEIR does not include a water supply assessment

SB 610 requires that water supply assessments for projects must identify existing water supply entitlements, water rights or water service contracts relevant to the water supply for the proposed project. This identification must include written contracts or other proof of entitlements, copies of capital outlay programs for financing water deliveries, federal, state and local permits for building delivery infrastructure, and any other regulatory approvals needed for delivery. Additional requirements apply if the supply for the project includes groundwater.

An EIR must demonstrate compliance with Senate Bill 610. (See Wat. Code, § 10910 et seq.) Pursuant to the SB 610, when a city or county determines that a “project” of a certain magnitude is subject to CEQA, the agency must identify the “public water

systems” that may supply water for the project. (Wat. Code, § 10910, subd. (b).) If the proposed project will be served by a public water system with fewer than 5,000 service connections, the proposal may also fall under the section 10912 definition of “project” if it would require an increase in water demand equivalent to 10% of the system’s water connections. (Wat. Code, § 10912, subd. (b).) The DEIR should clarify whether Royal Gorge is considered a “project” for purposes of SB 610. At a minimum, the existing discussion should be expanded to address the kinds of specific issues that an SB 610 water supply assessment would include.

3. The DEIR provides inadequate evidence of historical water use or available water supply

The DEIR provides a cursory discussion of existing conditions for water service. The DEIR references reports from 1995 and 2002, but fails to explain the conclusions derived from such reports, or address why more current reports were not prepared. For example, no historical data is provided to substantiate that total delivery capacity is 1 million gallons per day, or that total existing use is 100,000 gallons per day. (DEIR, p. 4.10-17.) The DEIR must be revised to provide such data. The mere statement that “[a]nalysis of potential water service impacts...was based on consultation with the DSPUD, review of the Nevada County General Plan policies, and review of the Nevada County General Plan Background Data and Analysis” is inadequate. (See *Cadiz Land Co., Inc. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 95 (in invalidating an EIR for a proposed landfill, the court was concerned about leachate leakage, and stated that “[t]he lack of information regarding the volume of water in the aquifer [beneath the proposed landfill] thwarted the goals of the EIR process by not disclosing to the public and government agencies critical information necessary to evaluate the significance of the landfill’s impact on a valuable resource, that of potable water in an arid region”); *Save Our Peninsula Committee v. Monterey Bay County Board of Supervisors* (2000) 87 Cal.App.4th 99, 126, 130 (in invalidating an EIR for a proposed residential project that would depend on groundwater, the court concluded that CEQA required documentation of the actual pre-project use of groundwater, as well as evidence addressing whether a hydrologic connection existed between the basin from which the project would draw and the location of a well to be closed in order to offset groundwater usage from the project, and thus mitigate its impacts).)

As a separate issue, the DEIR did not address the total water volume available in a year. Rather, only the daily water producing capacity is addressed. Given the fact that the inflow to Lake Angela is limited, the DEIR should include a discussion regarding the available yearly water volume.

4. The DEIR provides inadequate evidence of historical demand on wastewater treatment facilities or wastewater treatment capacity

The DEIR provides a cursory discussion of existing conditions for wastewater service. The DEIR references reports from 1995 and 2003, but fails to explain the conclusions derived from such reports, or why more current reports were not prepared. For example, no historical data is provided to substantiate the existing sewage treatment facility currently treats an average of 520,000 gpd, or that an additional 300,000 gpd are available. (DEIR, p. 4.10-22.) The DEIR must be revised to provide such data. The mere statement that “[a]nalysis of potential wastewater impacts...was based on consultation with the DSPUD, review of the Nevada County General Plan policies, and review of the Nevada County General Plan Background Data and Analysis” is inadequate.

Moreover, the DEIR’s conclusion that the existing facility has adequate sewage capacity is questionable. A three year moratorium has been placed on development in the Serene Lakes area, due in part to a sewage capacity shortage. The existing treatment plant is known to operate at close to capacity, the actual available capacity is presently being studied, and an expansion of existing facilities is being actively discussed. The DEIR should address each of these important issues, and statements to the effect that no expansion is being planned should be deleted.

5. The DEIR should require the Project to use bear resistant containers for solid waste

The DEIR states that “TTSD recommends that the project use ‘bear resistant’ containers pursuant to the local health code.” (DEIR, p. 4.10-27.) The DEIR, however, does not require that these containers be used to mitigate potential impacts. It is merely a “recommendation.” The DEIR should be revised to require the lodge to store its solid waste in a manner that precludes bear access. Possible measures include requiring that the waste be stored in enclosures or bear proof dumpsters. Similarly, all homesites should be required to store solid waste in bear-proof garbage containers.

6. The DEIR does not quantify the amount of solid waste generated by the Project

According to the DEIR, the residential units will generate approximately 144 pounds of solid waste per day, assuming 2.47 persons per household. As discussed above, however, many of these units will likely be rental units; 2.47 persons per household is not a realistic number when considering the number of persons that typically

rent out vacation units. The DEIR should consider the increased solid waste impacts that could occur if the residential area is partially or primarily a rental area.

In addition, the DEIR only considers the amount of solid waste generated by the 18 residential units. The DEIR does not account for the solid waste generated by the day lodge or the employee housing, nor does it consider construction waste. The explanation for this glaring shortcoming is that “TTSD indicated that commercial waste generation is difficult to estimate, as it depends on the nature of the business.” (DEIR, p. 4.10-27.) More analysis and explanation is required. Certainly the commercial waste generated by the day lodge and the employee housing can be estimated by looking at waste generation rates at similar facilities in the area. Similarly, the construction waste can be estimated by consulting existing data and reports. The DEIR must be revised to analyze impacts related to the amount of solid waste generated by the Project as a whole, not just the residential component.

Even if the precise amount of waste that will be generated by the entire Project is unknown, the DEIR should employ a reasonable worst case scenario approach and mitigate accordingly by using a performance standard, rather than deferring analysis of impacts because the extent of future operational uses is unknown. According to CEQA Guidelines section 15126.4, subdivision (a)(1)(B), “[f]ormulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards that would mitigate the significant effect of the project and which may be accomplished in more than one specified way.” As the court in *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028, explained: “for the kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process . . . the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval.” (*Id.*, at p. 1028.)

K. Visual Resources/Light and Glare

1. The DEIR must analyze the impacts from streetlights

The DEIR states that streetlights “may be included in the streetscape design”, and that such lights “could adversely affect adjacent areas.” (DEIR, p. 4.11-12.) Because the applicant has not yet specified whether streetlights will be included in Project design, however, the DEIR does not analyze the impacts related thereto.

Even if it is unknown whether the Project will include streetlights, the DEIR should employ a reasonable worst case scenario approach and mitigate accordingly by using a performance standard, rather than deferring analysis of impacts because the

extent of future operational uses is unknown. According to CEQA Guidelines section 15126.4, subdivision (a)(1)(B), “[f]ormulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards that would mitigate the significant effect of the project and which may be accomplished in more than one specified way.” As the court in *Sacramento Old City Association v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1028, explained: “for the kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process . . . the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval.” (*Id.*, at p. 1028.)

V. The Thresholds Of Significance Are Not Supported By Substantial Evidence

A. Nevada County may draw its significance criteria from the “CEQA Guidelines,” but it should use the CEQA Guidelines that are in legal effect in a consistent manner and explain any inconsistencies or changes

The CEQA Guidelines expressly authorize the adoption of thresholds of significance. The Guidelines provide as follows:

A threshold of significance is an identifiable quantitative, qualitative, or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.

(CEQA Guidelines, § 15064, subd. (a).)

The significance criteria used in the DEIR “include the CEQA Guidelines; factual or scientific information; regulatory performance standards of local, state, and federal agencies; and County goals, objectives, and policies.” (DEIR, p. 1.0-7.) No explanation is offered, however, to further iterate the origin of these criteria.

Some sections of the DEIR appear to rely in part on the now defunct former Appendix G, which, prior to 1997, was a list of impacts that were “normally” considered significant; some sections of the DEIR seem to rely on the current Appendix G, which is the initial study checklist. The DEIR does not explain this shift. Moreover, some sections of the DEIR seem to pick and choose among the standards relevant to a particular topic contained in those sources, including some and excluding others without any particular explanation. Finally, some sections have significantly altered the language

of the provisions without explanation. Such an inconsistent approach creates the appearance that the County has manipulated the standards in order to avoid finding significant impacts.

The County also looks to its General Plan for policies that help define thresholds of significance. When general plan policies do not actually limit the potential impacts of a project to a particular level, however, such policies may not be effective criteria for assessing impact significance. “[C]onformity with a general plan does not insulate a project from EIR review where it can be fairly argued that the project will generate significant environmental effects.” (*Oro Fino Gold Mining Corporation v. County of El Dorado* (1990) 225 Cal.App.3d 872, 881-882.) The thresholds that are derived from the General Plan should be identified, and any such thresholds that do not limit potential impacts should be eliminated.

B. The DEIR should explain how the County established the thresholds of significance

Where an agency can reduce the severity of an environmental impact by complying with an existing regulatory standard, such compliance will generally render the impact less than significant. Lead agencies are free to determine that any such standard is either appropriate or inappropriate as applied to a particular project, provided that such decisions are supported by “substantial evidence in light of the whole record.” (CEQA Guidelines, § 15064, subd. (h).) Notably, in order for a “standard” to qualify for purposes of CEQA Guidelines section 15064.7, subdivision (h), it must have been “adopted for the purpose of environmental protection” and it must have been “adopted by a public agency through a public review process” of some kind. (CEQA Guidelines, § 15064, subs. (h)(3)(B), (h)(3)(C).) Public Resources Code section 21082 requires that “[a]ll public agencies shall adopt by ordinance, resolution, rule or regulation, objectives, criteria, and procedures for the evaluation of projects and the preparation of environmental impact reports . . .” (Pub. Resources Code, § 21082.) CEQA Guidelines section 15064.7, subdivision (b), provides that “[t]hresholds of significance to be adopted for general use as part of the lead agency’s environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence.” (CEQA Guidelines, § 15064.7, subd. (b).) If the County has not formally adopted thresholds in the past, they should do so. In any event, the County must determine which threshold of significance to apply, and the DEIR should include an explanation as to how the County made its determination.

VI. The DEIR Does Not Adequately Discuss The Cumulative Environmental Impacts Of The Project

CEQA requires an analysis of the reasonably foreseeable cumulative impacts from existing and proposed projects. “Cumulative impacts” are defined as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” (CEQA Guidelines, § 15355.) The cumulative impacts analysis is a two-part analysis; first, an agency must ask whether the combined impacts of the projects, taken together, will constitute a significant cumulative impact. If this question is answered affirmatively, the agency must ask whether a particular project’s incremental contribution to that impact is cumulatively considerable. This two-step approach is reflected in the CEQA Guidelines, which state that “[w]hen assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. (CEQA Guidelines, § 15064, subd. (i)(1); see also *Communities for a Better Environment* (2002) 103 Cal.App.4th 98, 120.) The DEIR frequently does not adhere to this two step approach, and should be revised accordingly.

In addition, cumulative impacts analyses must “define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.” (CEQA Guidelines, § 15130, subd. (b)(1)(B)(3).) Contrary to CEQA, the DEIR does not adequately define the Project’s geographic scope. A “regional location” map is provided as part of the Project Description (Figure 3.0-1); yet, as discussed above, the map is illegible. Moreover, it is unclear whether the map represents the geographic scope of the Project. Even assuming that the regional map constitutes the requisite geographic boundary for a cumulative impacts analysis, the DEIR still fails to provide a reasonable explanation for the geographic limitation used. The DEIR states that it considered projects “in the vicinity of the site” (DEIR, pp. 4.1-11), in “the general vicinity of the project site (DEIR, pp. 4.2-11), “in the project area” (DEIR, p. 4.8-27), or “in the region” (DEIR, p. 4.8-28). This explanation is vague at best. The geographic scope must be properly defined. For example, the DEIR states that no development on parcels C, D, and E is proposed “at this time.” (DEIR, p. 4.1-10.) Are future phases of development planned? Is future development reasonably foreseeable? Royal Gorge has previously expressed a desire to develop an Olympic Village in the area - is an Olympic development a foreseeable use in the Project areas not slated for development “at this time”? If future development on lots C, D, and E is foreseeable, such development must be included as part of the cumulative analysis. Moreover, the DEIR should discuss and analyze all other reasonably foreseeable consequences of the Project, such as other housing developments around the lake, including the future build out of approximately 300 homes in Serene Lakes.

The DEIR must also specify which existing projects “in the project area” were considered for the cumulative impacts analysis. For example, did the cumulative analysis consider the Serene Lakes subdivision located within 1 mile of the Project, or the Soda Springs tubing area located across the street from the Project?

Of equal concern, the DEIR does not consistently delineate the geographic boundaries relevant to each individual environmental resource. The geographic boundaries for considering the cumulative traffic impacts would necessarily be different from the geographic boundaries selected when considering the cumulative air quality impacts, biological impacts, or any other environmental impact. In other words, the proper geographic scope to consider for one impact may differ from what is appropriate for another, as each kind of environmental impact is relevant in a larger context that might be defined by factors as various as political boundaries, airsheds, watersheds, commutesheds, or other topographical or geographical features.

Because the DEIR does not identify or explain the geographic boundaries used for the cumulative impacts analysis, the reader is precluded from determining whether or not the document impermissibly narrows its cumulative impacts analysis to exclude cumulative impacts of projects within the region. For example, if the geographic scope of the cumulative impacts analysis is defined by the regional location map, the DEIR must include the cumulative impacts of all projects that are *reasonably foreseeable*. (CEQA Guidelines, § 15355, subd. (b).)² Without defining the applicable geographic scope, the DEIR provides no meaningful analysis of potential cumulative impacts in the region.

Finally, the DEIR should arguably include in its cumulative impacts analysis a discussion of all projects or reasonably foreseeable projects located in the Mountain Counties Air Basin. When addressing the proper geographic bounds for cumulative impacts analyses, the court in *Kings County Farm Bureau* concluded that the lead agency should consider the *entire* air basin.³ Although the DEIR describes a cumulative setting that includes “future development” within the air basin, no approved or planned projects

²/ Even if the County lacks specific detail regarding future projects, a lack of specific detail is not an adequate basis for refusing to include the project in a cumulative impacts analysis. (*Terminal Plaza Corporation v. City and County of San Francisco* (1986) 177 Cal.App.3d 892, 904-905.) If the cumulative impacts are uncertain, the lead agency must nonetheless do its best to include such impacts in its analysis. (*Ibid.*)

³/ In *Kings County Farm Bureau*, the court found an EIR inadequate for failing to consider the entire 27,000 square mile San Joaquin Valley air basin in its cumulative impacts analysis. (*Kings County Farm Bureau, supra*, 221 Cal.App.3d at p. 723.)

are specifically identified. Again, absent the necessary information regarding the geographic scope of the Project, the public cannot make an informed decision regarding the Project's potential cumulative impacts.

The above examples of the DEIR's inadequate analysis of cumulative impacts are not exhaustive. Indeed, the DEIR's cumulative impacts analysis is generally deficient and demands extensive revision.

VII. The Alternatives Analysis Is Legally Inadequate

A. The alternatives analysis should include a quantitative, comparative analysis

Alternatives that are retained for detailed analysis should be discussed in sufficient detail to allow meaningful evaluation, analysis, and comparison with the proposed project. (CEQA Guidelines, § 15126.6, subd. (d).) “Case law states that alternatives analysis must contain “meaningful detail” and, at least in some circumstances, should include “quantitative, comparative analysis.” (*Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 406; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 733-734.)

Where quantitative data is available, this should be provided. Although credible numbers are hard to generate for very conceptual alternatives, often some gross projection is possible. The limitations of the projection can of course be explained, and should be. At least with respect to air pollution generation, noise, water usage and wastewater consumption, traffic, biological resources, and other impact areas, such numbers could be plausibly generated. Such numbers can be generated through formulae applied to square footage figures and presented in tables. The inclusion of numbers would help address the concerns that have impressed courts in such cases as *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 406 and *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 733-734.

Moreover, the alternatives analysis will require revision once the County properly establishes baseline conditions.

B. The narrowly defined project objectives preclude proper analysis of a reasonable range of alternatives

The narrowly defined project objectives have rendered the DEIR’s treatment of alternatives inadequate. (See *County of Inyo v. City of Los Angeles* (1981) 124 Cal.App.3d 1, 9 (“an ‘impermissibly truncated’ project definition severely distorted not only the critical project *but the alternatives to the project*”).) As discussed above, the objectives are drafted like a project description, and thereby preclude adequate analysis of potential alternatives.

C. The DEIR should consider additional project alternatives

An EIR's alternatives analysis should include a range of reasonable alternatives to the project that would feasibly attain most of the basic project objectives but would avoid or substantially lessen any of the significant effects of the project. (CEQA Guidelines, § 15126.6, subd. (a).) Because the EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment, the alternatives discussion should focus on alternatives to the project that are capable of avoiding or lessening significant effects, even if the alternative would impede to some degree the projects objectives or would be more costly. (CEQA Guidelines, § 15126.6, subd. (b).)

The DEIR identifies significant and unavoidable cumulative impacts to traffic. The County, when considering alternatives, is therefore required to consider alternatives to substantially lessen or avoid these traffic impacts. One possible alternative would be to move the Project closer to the freeway. This alternative would meet many of the project objectives, such as providing recreation in proximity to ski facilities, yet would reduce the traffic impacts.

As another alternative, the DEIR should also consider clustering the housing units near the day lodge, on both sides of the Lincoln Highway. These units could be condos and/or hotel units. They could be placed within 250 yards of the day lodge, with plowed walkways and ski trails connecting the units. The impact of keeping the housing units off the edge of the meadow, except within 250 yards of the day lodge, would be immeasurably less than stringing houses nearly half way along the north edge of the meadow.

Finally, the DEIR should consider building the ice rink and day lodge on the existing Royal Gorge Van Norden Station parking lot, which is currently zoned REC. This lot is located northwest of the proposed Project site alongside the railroad tracks. The open area currently used by Soda Springs as overflow parking could be used as a common parking lot, provided the public would be allowed unrestricted access to Old Lincoln Highway. This alternative is favorable for the following reasons: it requires no rezoning, utilizes already developed commercial land and existing ski trails, clusters the development contiguous to existing commercial development (the Soda Springs Ski and Tubing area is located across the street), does not require paving of Old Lincoln Highway, is located closer in proximity to existing infrastructure, does not disturb any of the ecotone along Old Lincoln Highway, and does not alter the Van Norden Meadow. In addition, this alternative meets the main project objective of developing an ice rink and day lodge close to existing recreational facilities

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For all of the above reasons, the Draft EIR for the Royal Gorge Lodge and Homesites Project is inadequate in several respects. The County must therefore revise and recirculate the DEIR in accordance with CEQA. (See CEQA Guidelines, § 15120, subd. (c) (draft EIRs must contain all of the information required by CEQA Guidelines sections 15122 through 15131).) On behalf of Serene Lakes Property Owners' Association, we thank you in advance for your consideration of the comments set forth above.

Sincerely,

Tina A. Thomas

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