AGENDA
BOARD OF SUPERVISORS, COUNTY OF MONO
STATE OF CALIFORNIA

Regular Meetings: The First, Second, and Third Tuesday of each month. Location of meeting is specified at far right.	Regular Meeting	MEETING LOCATION Board Chambers, 2nd Fl., County Courthouse, 278 Main St., Bridgeport, CA 93517

October 8, 2013

TELECONFERENCE LOCATIONS: 1) First and Second Meetings of Each Month: Mammoth Lakes CAO Conference Room, 3rd Floor Sierra Center Mall, 452 Old Mammoth Road, Mammoth Lakes, California, 93546; 2) Third Meeting of Each Month: Mono County Courthouse, 278 Main, 2nd Floor Board Chambers, Bridgeport, CA 93517. Board Members may participate from a teleconference location. Note: Members of the public may attend the open-session portion of the meeting from a teleconference location, and may address the board during any one of the opportunities provided on the agenda under Opportunity for the Public to Address the Board.

NOTE: In compliance with the Americans with Disabilities Act if you need special assistance to participate in this meeting, please contact the Clerk of the Board at (760) 932-5534. Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting (See 42 USCS 12132, 28CFR 35.130).

Full agenda packets are available for the public to review in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517), and in the County Offices located in Minaret Mall, 2nd Floor (437 Old Mammoth Road, Mammoth Lakes CA 93546). Any writing distributed less than 72 hours prior to the meeting will be available for public inspection in the Office of the Clerk of the Board (Annex I - 74 North School Street, Bridgeport, CA 93517). **ON THE WEB**: You can view the upcoming agenda at www.monocounty.ca.gov. If you would like to receive an automatic copy of this agenda by email, please send your request to Lynda Roberts, Clerk of the Board : lroberts@mono.ca.gov.

UNLESS OTHERWISE SPECIFIED BY TIME, ITEMS SCHEDULED FOR EITHER THE MORNING OR AFTERNOON SESSIONS WILL BE HEARD ACCORDING TO AVAILABLE TIME AND PRESENCE OF INTERESTED PERSONS. PUBLIC MAY

COMMENT ON AGENDA ITEMS AT THE TIME THE ITEM IS HEARD.

9:00 AM Call meeting to Order

Pledge of Allegiance

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.)

CLOSED SESSION

BOARD OF SUPERVISORS

CLOSED SESSION WILL FOLLOW REGULAR MORNING SESSION.

1a) Closed Session--Human Resources - CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Marshall Rudolph, John Vallejo, Leslie Chapman, Bill Van Lente and Jim Leddy. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39--majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Public Safety Officers Association (PSO), and Mono County Sheriff Department's Management Association (SO Mgmt). Unrepresented employees: All.

1b) County Counsel Performance Evaluation - PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: County Counsel.

2) APPROVAL OF MINUTES

9:00 a.m.

None

3) **BOARD MEMBER REPORTS**

The Board may, if time permits, take Board Reports at any time during the meeting and not at a specific time.

Approximately 10 Minutes COUNTY ADMINISTRATIVE OFFICE

4) CAO Report regarding Board Assignments
Receive brief oral report by County Administrative Officer (CAO) regarding work activities.

Approximately 15 minutes **DEPARTMENT REPORTS/EMERGING ISSUES**
(PLEASE LIMIT COMMENTS TO FIVE MINUTES EACH)

Approximately 5 minutes for Consent Items

CONSENT AGENDA

(All matters on the consent agenda are to be approved on one motion unless a board member requests separate action on a specific item.)

COUNTY ADMINISTRATIVE OFFICE

Additional Departments: Clerk of the Board

5a) Request to Cancel the November 19, 2013 Board of Supervisors Meeting - Request from the County Administrator asking the Board of Supervisors to approve cancelling of November 19th Board of Supervisors meeting in order to allow Board members to attend the California State Association of Counties Annual Conference.

Recommended Action: Approve cancelling of November 19th Board of Supervisors meeting in order to allow Board members to attend the California State Association of Counties Annual Conference.

Fiscal Impact: There is no financial impact from cancelling a meeting and Board participation in CSAC has been budgeted in the adopted 2013-2014 Budget.

COMMUNITY DEVELOPMENT - PLANNING DIVISION

6a) Appointment of June Lake Citizens Advisory Committee Member - Consider appointment of one new member, Don Morton, to the June Lake Citizens Advisory Committee, as recommended by Supervisor Alpers.

Recommended Action: Approve appointment of Don Morton to the June Lake Citizens Advisory Committee.

Fiscal Impact: No fiscal impacts are expected.

REGULAR AGENDA

CORRESPONDENCE RECEIVED
(INFORMATIONAL)
All items listed are available for review and are located in the Office of the Clerk of the Board

CLERK OF THE BOARD

7a) Traynor Letter Requesting Relief for Local Businesses from Effects of the Rim Fire - Correspondence dated September 24, 2013 from Tim and Kimberly Traynor (owners of Yosemite Gateway Motel) requesting relief from the effects of the Rim Fire on local businesses. They are requesting additional time to make TOT payments as they become due.

****

COMMUNITY DEVELOPMENT - PLANNING DIVISION

8a)

Public Hearing
10:00 a.m.
15 minutes
(5 minute presentation; 10 minute discussion)

General Plan Amendment 13-003 (a) (Courtney Weiche) - Public hearing to amend the General Plan Land Use Designation Map to establish a Transient Rental Overlay District to allow for nightly rentals at 973 Lundy Lake Road (APN 019-140-011) and Addendum to General Plan EIR.

Recommended Action: Conduct public hearing. Take the following actions: (1) Approve Addendum #13-02 to the Mono County General Plan EIR; and (2) adopt proposed resolution approving aTransient Rental Overlay District for 972 Lundy Lake Road (APN 019-140-011).

Fiscal Impact: Potentially increased revenues from transient occupancy taxes.

8b)

Public Hearing
10:15 a.m.
15 minutes
(5 minutes presentation; 10 minutes discussion)

General Plan Amendment 13-003 (b) (Courtney Weiche) - Public hearing to consider the Planning Commission recommendation to approve General Plan Amendment 13-003 (b) to amend the General Plan Land Use Designation Map to add 9 Silver Meadow Lane (APN 016-096-005) and 93 Nevada St. (APN 016-098-011) to the established Transient Rental Overlay District at June Lake to allow for nightly rentals.

Recommended Action: Conduct public hearing. Take the following actions: (1) adopt Addendum #13-003 (a & b) to the Mono County General Plan EIR; and (2) adopt proposed resolution adding 9 Silver Meadow Lane (APN 016-096-005) and 93 Nevada St. (APN 016-098-011) to the established Transient Rental Overlay District at June Lake to allow for nightly rentals.

Fiscal Impact: Potential increased revenues generated from transient occupancy taxes.

Additional Departments: County Counsel, Public Works

8c)

45 minutes
(15 minutes presentation; 30 minutes

Easement Request for Lundy Return Conveyence System (Scott Burns) - Consider request by Southern California Edison (SCE) for easement on Mono County property (APN 019-100-000) for construction of a new Mill Creek Return Conveyance Facility.

discussion)

Recommended Action: Consider Southern California Edison (SCE) request for easement on Mono County property (APN: 019-100-008-000) for construction of a new Mill Creek Return Conveyance Facility and take one of the following actions: 1.Direct staff to initiate Environmental Impact Report (EIR) preparation to comply with the California Environmental Act (CEQA), with all costs borne by SCE, so that the Board may, at a later time, consider whether to grant the requested easement; or 2. Deny the request.

Fiscal Impact: No impact to general fund if denied. To allow for consideration of approval, a yet-to-be determined cost for preparation and processing of an EIR would be required to be fully funded by SCE.

COUNTY COUNSEL

Additional Departments: Public Works, Risk Management

9a)

25 minutes (10 minute presentation, 15 minute discussion)

Masonic Gun Range MOU (Marshall Rudolph) - Proposed Memorandum of Understanding (MOU) with the Bridgeport Gun Club regarding operation of the Masonic Gun Range.

Recommended Action: Approve County entry into proposed MOU regarding operation of the Masonic Gun Range, and authorize the Board Chair to sign said MOU on behalf of the County.

Fiscal Impact: None. All services to be performed by the Gun Club are free of charge to the County.

FINANCE

10a)

60 min. (5 min. presentation, 55 min. discussion)

Prop 172 Revenue Allocation (Leslie Chapman) - Proposed resolution, A Resolution of the Mono County Board of Supervisors changing the Allocation of Proposition 172 Funds Received by Mono County.

Recommended Action: Adopt the proposed resolution #R13-_____, changing the allocation of Proposition 172 Funds Received by Mono County and approve related budget changes (4/5ths vote required).

Fiscal Impact: This resolution changes the allocation of the total revenue within the County budget but does not change the total general fund allocation.

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD on items of public interest that are within the subject matter jurisdiction of the Board. (Speakers may be limited in speaking time dependent upon the press of business and number of persons wishing to address the Board.)

****

MOVE INTO CLOSED SESSION UPON COMPLETION OF REGULAR MORNING AGENDA

****

ADJOURNMENT

§§§§§

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE	October 8, 2013	**DEPARTMENT**	Board of Supervisors
ADDITIONAL DEPARTMENTS			
TIME REQUIRED		**PERSONS APPEARING BEFORE THE BOARD**	
SUBJECT	Closed Session--Human Resources		

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

CONFERENCE WITH LABOR NEGOTIATORS. Government Code Section 54957.6. Agency designated representative(s): Marshall Rudolph, John Vallejo, Leslie Chapman, Bill Van Lente and Jim Leddy. Employee Organization(s): Mono County Sheriff's Officers Association (aka Deputy Sheriff's Association), Local 39--majority representative of Mono County Public Employees (MCPE) and Deputy Probation Officers Unit (DPOU), Mono County Paramedic Rescue Association (PARA), Mono County Public Safety Officers Association (PSO), and Mono County Sheriff Department's Management Association (SO Mgmt). Unrepresented employees: All.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☐ YES ☑ NO

ATTACHMENTS:

Click to download

No Attachments Available

History

Time	Who	Approval
8/14/2013 8:36 AM	County Administrative Office	Yes
10/1/2013 9:50 AM	County Counsel	Yes
8/14/2013 8:27 AM	Finance	Yes

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE	October 8, 2013	**DEPARTMENT**	Board of Supervisors
ADDITIONAL DEPARTMENTS			
TIME REQUIRED		**PERSONS APPEARING BEFORE THE BOARD**	
SUBJECT	County Counsel Performance Evaluation		

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION. Government Code section 54957. Title: County Counsel.

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME:

PHONE/EMAIL: /

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☐ YES ☑ NO

ATTACHMENTS:

Click to download

No Attachments Available

History

Time	Who	Approval
10/2/2013 2:37 PM	County Administrative Office	Yes
10/1/2013 3:18 PM	County Counsel	Yes
10/2/2013 4:18 PM	Finance	Yes

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE	October 8, 2013	**DEPARTMENT**	County Administrative Office
ADDITIONAL DEPARTMENTS	Clerk of the Board		
TIME REQUIRED		**PERSONS APPEARING BEFORE THE BOARD**	
SUBJECT	Request to Cancel the November 19, 2013 Board of Supervisors Meeting		

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Request from the County Administrator asking the Board of Supervisors to approve cancelling of November 19th Board of Supervisors meeting in order to allow Board members to attend the California State Association of Counties Annual Conference.

RECOMMENDED ACTION:

Approve cancelling of November 19th Board of Supervisors meeting in order to allow Board members to attend the California State Association of Counties Annual Conference.

FISCAL IMPACT:

There is no financial impact from cancelling a meeting and Board participation in CSAC has been budgeted in the adopted 2013-2014 Budget.

CONTACT NAME: Jim Leddy

PHONE/EMAIL: (760) 932-5414 / jleddy@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☐ YES ☑ NO

ATTACHMENTS:

Click to download

- Cover Memo request to cancel the November 19, 2013 Board of Supervisors meeting

History

Time	Who	Approval
9/26/2013 8:58 AM	County Administrative Office	Yes
10/1/2013 9:51 AM	County Counsel	Yes
10/2/2013 4:03 PM	Finance	Yes

BOARD OF SUPERVISORS
COUNTY OF MONO

P.O. BOX 715, BRIDGEPORT, CALIFORNIA 93517
(760) 932-5530 • FAX (760) 932-5531

Lynda Roberts
Clerk of the Board
760-932-5538
lroberts@mono.ca.gov

Linda Romero
Assistant Clerk of the Board
760-932-5534
lromero@mono.ca.gov

To: Honorable Board of Supervisors
From: Jim Leddy, County Administrative Officer
Date: October 8, 2013

Subject:
Request to cancel the November 19, 2013 Board of Supervisors meeting.

Recommendation
Approve cancelling of November 19th Board of Supervisors meeting in order to allow Board members to attend annual California State Association of Counties Conference.

Background
The Board of Supervisors meets the first three Tuesdays of each month. In November the California State Association of Counties (CSAC) will be holding its annual conference in San Jose. Supervisors from across the state congregate and have the opportunity to participate in many different sessions on policies and legislation which impact the effective delivery of county services.

Discussion
A majority of the Board will be in attendance and the November 19th meeting should be cancelled due to a prospective lack of a quorum.

Fiscal Impact
There is no financial impact from cancelling a meeting and Board participation in CSAC has been budgeting in the adopted 2013-2014 Budget.

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE	October 8, 2013	**DEPARTMENT**	Community Development - Planning Division
ADDITIONAL DEPARTMENTS			
TIME REQUIRED		**PERSONS APPEARING BEFORE THE BOARD**	
SUBJECT	Appointment of June Lake Citizens Advisory Committee Member		

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Consider appointment of one new member, Don Morton, to the June Lake Citizens Advisory Committee, as recommended by Supervisor Alpers.

RECOMMENDED ACTION:

Approve appointment of Don Morton to the June Lake Citizens Advisory Committee.

FISCAL IMPACT:

No fiscal impacts are expected.

CONTACT NAME: Courtney Weiche

PHONE/EMAIL: 760.924.1803 / cweiche@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☐ YES ☑ NO

ATTACHMENTS:

Click to download

Staff Report

History

Time	Who	Approval
10/2/2013 2:36 PM	County Administrative Office	Yes
10/2/2013 6:05 PM	County Counsel	Yes
10/2/2013 4:03 PM	Finance	Yes

Mono County
Community Development Department

PO Box 347
Mammoth Lakes, CA 93546
760.924.1800, fax 924.1801
commdev@mono.ca.gov

Planning Division

PO Box 8
Bridgeport, CA 93517
760.932.5420, fax 932.5431
www.monocounty.ca.gov

October 8, 2013

To: Mono County Board of Supervisors

From: Courtney Weiche, Associate Planner, for Tim Alpers, Supervisor

Subject: Appointment of June Lake Citizens Advisory Committee Member (Consent Item)

Action Requested
Consider appointment of one new member to the June Lake Citizens Advisory Committee, as recommended by Supervisor Alpers.

Fiscal/Mandates Impact
No fiscal impacts are expected.

Current Fiscal Year Budget Projections
No impact is expected on current fiscal year budget projections.

Discussion
Supervisor Alpers, District 3, requests Board consideration of his recommendation for membership / term for the June Lake Citizens Advisory Committee (9 members total).

New members recommended for appointment:	Terms to Expire:
• Don Morton	12-31-15

Other existing members (for information):

• Ann Tozier	12-31-15
• Jarrod Lear	12-31-15
• Rob Morgan	12-31-15
• Alan Sagot	12-31-15
• Connie Black	12-31-14
• BZ Miller	12-31-14
• Dan Roberts	12-31-14
• Jil Stark	12-31-14

If you have any questions regarding this item, please contact Supervisor Alpers or Courtney Weiche at 924-1803.

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE	October 8, 2013	**DEPARTMENT**	Clerk of the Board
ADDITIONAL DEPARTMENTS			
TIME REQUIRED		**PERSONS APPEARING BEFORE THE BOARD**	
SUBJECT	Traynor Letter Requesting Relief for Local Businesses from Effects of the Rim Fire		

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Correspondence dated September 24, 2013 from Tim and Kimberly Traynor (owners of Yosemite Gateway Motel) requesting relief from the effects of the Rim Fire on local businesses. They are requesting additional time to make TOT payments as they become due.

****

RECOMMENDED ACTION:

FISCAL IMPACT:

CONTACT NAME: Shannon Kendall

PHONE/EMAIL: x5533 / skendall@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☐ YES ☑ NO

ATTACHMENTS:

Click to download

Traynor Letter

History

Time	Who	Approval
9/30/2013 3:14 PM	Clerk of the Board	Yes

September 24, 2013

TO: Mono County Supervisors
C/O Clerk of the Board
PO Box 715
Bridgeport, CA 93517

FROM: Tim and Kimberly Traynor, Owners
Eastern Sierra Partners
DBA: Yosemite Gateway Motel
51340 Highway 395
PO Box 250
Lee Vining, Ca. 93541
760-873-8658 - home
760-473-1971 - Tim cell
760-920-0160 - Kim cell
kimtraynor@yosemitegatewaymotel.com - email

RE: Rim Fire effects on local lodging business.....

Dear Mono County Supervisors,

We are writing this letter to ask you to please consider some possible relief to help the lodging businesses in Mono County recover from the devastating effects of the recent Rim Fire which ultimately led to the closing of a portion of the Tioga Road in Yosemite for over two weeks in the busiest part of our tourist season. Due to the fact that our season is so short - even for a normal season, there is not a lot of "recovery" room to fall back on in a situation like this. The losses that we incurred due to the closure of the Tioga Road this month were absolutely devastating for us, and we are now forced into a position of desperately trying to find ways to come out of it without losing everything. We have been responsible, tax paying owners of a thriving business in Mono County for almost 25 years. We have pulled ourselves up from all kinds of hard situations. This is not an easy letter to write.

This is where we are hoping that you might be able to give us motel owners in Mono County a bit of short term relief so that we can buy some time to be able to emerge out of this disaster. The third quarter TOT comes due right as our season is coming to an end, and unfortunately it is the biggest TOT payment of the year - usually around $30,000 to $35,000 for our business. We would like to request that you give Mono County motel owners the opportunity to pay their third and fourth quarter TOT over a period of time in payments - charging interest only, and waiving penalties for late payment. This would help us tremendously - giving us the opportunity to still be able to cover expenses in the winter months when there is no income coming in - and still be accountable for the TOT we collected in these quarters - without having to get buried in the penalties normally charged for late TOT payments.

We have already approached Mono County Tax Collector, Rosemary Glazier, and though she would not deal with us directly, she did relay the message through her

assistant, Marilyn that there was not anything she could do for us. This is why we are turning to you.

We sincerely thank you in advance for your consideration, and openly welcome any other suggestions you may have about assistance that is available to us business owners that we may not be aware of.

We will be looking forward to your response.

Sincerely,

Kimberly Traynor

Tim Traynor

Owners, Eastern Sierra Partners
DBA: Yosemite Gateway Motel

CC: Larry Johnston, Fred Stump, Tim Alpers, Tim Fesko, Byng Hunt

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE	October 8, 2013	**DEPARTMENT**	Community Development - Planning Division
ADDITIONAL DEPARTMENTS			
TIME REQUIRED	15 minutes (5 minute presentation; 10 minute discussion)	**PERSONS APPEARING BEFORE THE BOARD**	Courtney Weiche
SUBJECT	General Plan Amendment 13-003 (a)		

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Public hearing to amend the General Plan Land Use Designation Map to establish a Transient Rental Overlay District to allow for nightly rentals at 973 Lundy Lake Road (APN 019-140-011) and Addendum to General Plan EIR.

RECOMMENDED ACTION:

Conduct public hearing. Take the following actions: (1) Approve Addendum #13-02 to the Mono County General Plan EIR; and (2) adopt proposed resolution approving aTransient Rental Overlay District for 972 Lundy Lake Road (APN 019-140-011).

FISCAL IMPACT:

Potentially increased revenues from transient occupancy taxes.

CONTACT NAME: Courtney Weiche

PHONE/EMAIL: 760.924.1803 / cweiche@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☐ YES ☑ NO

ATTACHMENTS:

Click to download

- Staff Report
- GPA Addendum 13-002

- BOS Res
- Planning Commission Resolution

History

Time	Who	Approval
10/2/2013 2:37 PM	County Administrative Office	Yes
10/3/2013 8:55 AM	County Counsel	Yes
10/2/2013 3:57 PM	Finance	Yes

Mono County
Community Development Department

PO Box 347
Mammoth Lakes, CA 93546
760.924.1800, fax 924.1801
commdev@mono.ca.gov

PO Box 8
Bridgeport, CA 93517
760.932.5420, fax 932.5431
www.monocounty.ca.gov

October 8, 2013

TO: Mono County Board of Supervisors

FROM: Courtney Weiche, Associate Planner

RE: General Plan Amendment 13-003, including:
A. GPA 13-003(a) Kibbee Transient Rental Overlay District at Lundy Canyon
B. GPA 13-003(b) Anderson Transient Overlay District at June Lake

RECOMMENDED ACTION

1. Approve Resolution R13-__, accepting the Planning Commission's recommendation and Addendum 13-02 to the Mono County General Plan EIR and approving General Plan Amendment 13-003(a); and

2. Approve Resolution R13-__, accepting the Planning Commission's recommendation and Addendum 13-02 to the Mono County General Plan EIR and approving General Plan Amendment 13-003(b).

BACKGROUND

The Board of Supervisors approved General Plan Amendment 12-001 in December 2012 that added Chapter 25, Transient Overlay Districts, and Chapter 26, Transient Rental Standards and Enforcement, to the Mono County General Plan Land Use Element. The intent of the amendment was to allow transient rentals within compatible residential neighborhoods to increase tourism opportunities and provide additional economic support to homeowners.

The creation of Chapters 25 & 26 provides a General Plan tool to allow transient rentals in specific neighborhoods through a General Plan Amendment application for a Transient Rental Overlay District (TROD).

A TROD application requires that the shape of any proposed district be contiguous, compact and orderly. Factors used to determine compact and orderly include street-frontage sharing, adjoining yards, and existing characteristics that define residential neighborhood boundaries such as subdivision boundaries, major roads, natural features, large undeveloped parcels and commercial or civic land uses.

Chapter 26 provides regulations that ensure transient rentals meet minimum safety requirements, provide 24-hour local property management, allow for enhanced enforcement of unpermitted transient operators, and provide means for minimizing potential neighborhood conflicts such as parking and noise. If a Transient Rental Overlay District is approved, individual homeowners in the district would then be required to submit a Transient Rental application in conformance with the regulations specified in Chapter 26 before commencing short-term rentals.

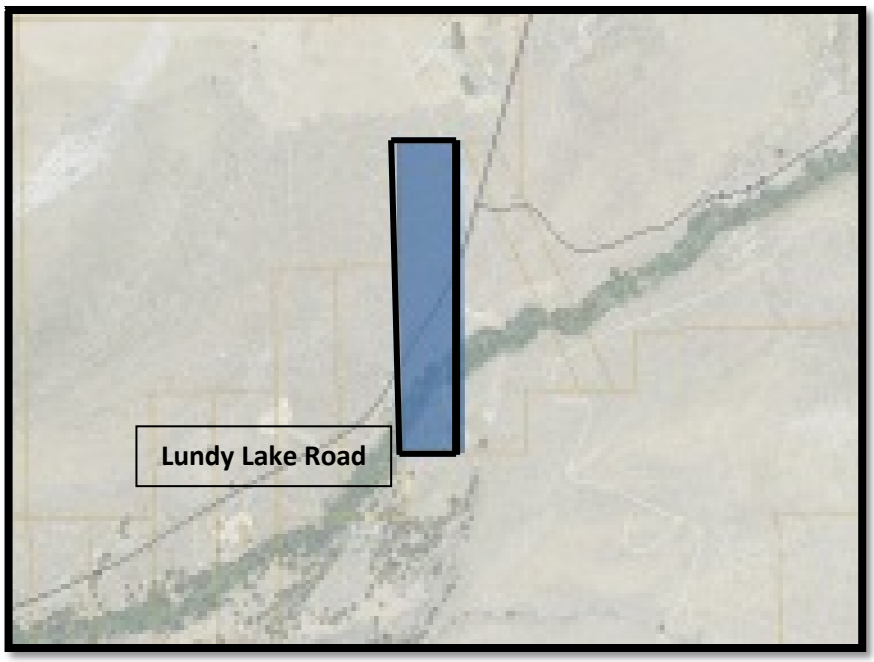
GENERAL PLAN AMENDMENT 13-003(a) KIBBEE

The proposed Transient Rental Overlay District (TROD) is located at 973 Lundy Lake Road (APN 019-140-011). One single-family residence is located on the rural 10 acre parcel. Access is off Lundy Lake Road onto a long dirt driveway leading to the south end of the property. To the east and west are large parcels designated Single-Family Residential. Other surrounding designated land uses include Public

Facility (owned by Southern California Edison) and Resource Management (owned by the Bureau of Land Management).

Following an invitation to join the proposed TROD, adjoining neighbors called with concerns and questions regarding the creation of a TROD, some of which included enforcement of noise complaints, property manager requirements, and additional risk of vandalism because of the rural setting. Most all concerns seemed to have been satisfied after reviewing and clarifying the TROD-related General Plan chapters. To date, no formal comment letters have been received. Any comments received will be provided and included as part of the record at the hearing.

Project Location



LAND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE
The LDTAC met July 1, 2013, to review and provide input on the project proposal. The LDTAC accepted the proposed Transient Rental Overlay District application and recommended moving forward with processing the permit.

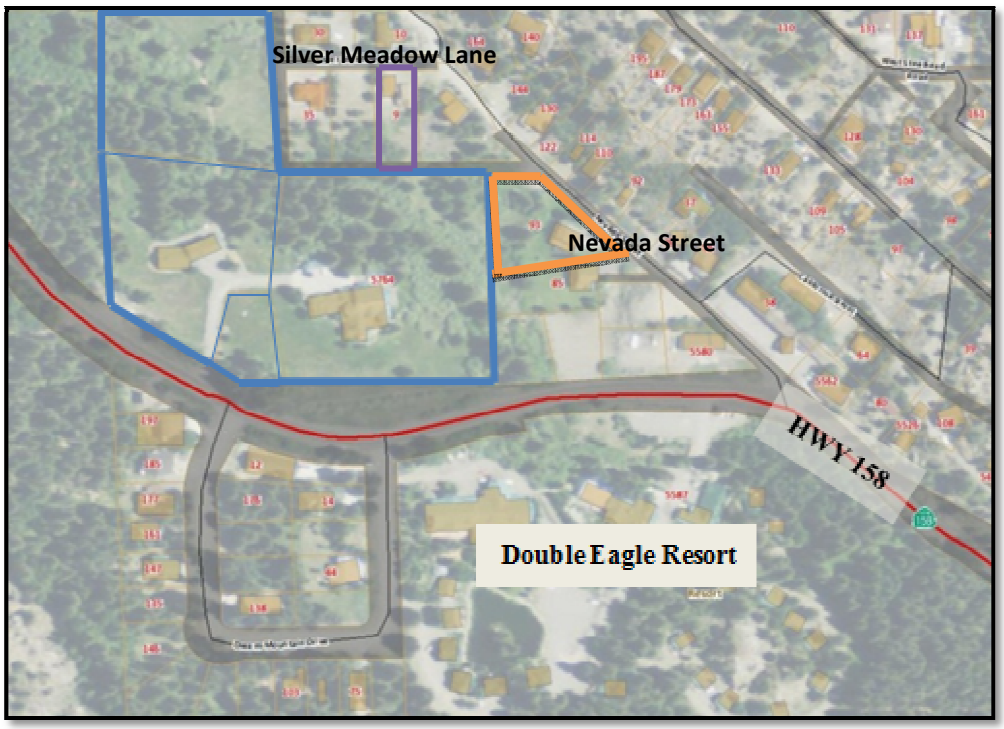
PLANNING COMMISSION
The Planning Commission considered the item at a public hearing on September 12, 2013. No members of the public spoke in opposition of the project. The Planning Commission subsequently adopted Resolution 12-05 (see attachment) recommending acceptance of the EIR Addendum and that the Board of Supervisors approve GPA 13-002 (a). The Board of Supervisors is required to consider the Planning Commission recommendation at the public hearing and may approve, modify or disapprove the recommendation.

GENERAL PLAN AMENDMENT 13-003(b) Anderson
The proposed expansion of the existing Transient Rental Overlay District is located in the Down Canyon area of June Lake along Highway 158 and proposes to include two additional adjoining parcels at 9 Silver Meadow Lane (APNs 016-096-005) and 93 Nevada St. (016-098-011). Both parcels are designated Single-Family Residential. The Double Eagle Resort is located across Highway 158 and adjoins other commercial uses that allow for transient rentals.

A notice to surrounding property owners was sent out inviting them to join the proposed TROD. One request was made by Brian Brosgart, 93 Nevada St. (APN 016-098-011), to join the TROD and was recommended by the Planning Commission to be included. Additionally, adjoining neighbors did have many questions regarding the rules and regulations of the TROD chapters of the General Plan. Most all concerns seemed to have been mitigated once the requirements were clarified by staff.

No formal comment letters have been received to date, however following the Planning Commission hearing, an email was received with concerns regarding property boundaries and access. The applicant has indicated their intent to address the neighbor's concerns; the applicant's efforts will be verified by staff during issuance of the subsequent Vacation Home Rental Permit.

Project Location



*Blue = Existing TROD
*Purple = Original TROD expansion proposal by Anderson
*Orange = Request by Brosgart to join in proposed TROD

LAND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE

The LDTAC met August 5, 2013, to review and provide input on the project proposal. The LDTAC

accepted the proposed Transient Rental Overlay District application and recommended moving forward with processing the permit.

PLANNING COMMISSION

The Planning Commission considered the item at a public hearing on September 12, 2013. No members of the public spoke in opposition of the project. The Planning Commission subsequently adopted Resolution 12-06 (see attachment) recommending acceptance of the EIR Addendum and that the Board of Supervisors approve GPA 13-002 (b), with the inclusion of the adjacent property owned by Brian Brosgart, 93 Nevada St. (APN 016-098-011), The Board of Supervisors is required to consider the Planning Commission recommendation at the public hearing and may approve, modify or disapprove the recommendation.

GENERAL PLAN CONSISTENCY

The proposed general plan amendment complies with existing General Plan, Countywide Policies:

Objective H Maintain and enhance the local economy.

Policy 5: Promote diversification and continued growth of the county's economic base.

Action 5.1: Encourage and promote the preservation and expansion of the county's tourist and recreation based economy.

The June Lake Area Plan encourages providing a wide range of commercial and residential uses. The project provides for additional visitor lodging for the tourist-based economy by providing a variety of lodging options within the June Lake Loop.

CEQA COMPLIANCE

An addendum to the county General Plan EIR has been prepared for the proposed project. The impacts of the proposed project will not result in a substantive change to the number of significant effects, severity of effects, or the feasibility and/or effectiveness of applicable mitigation measures or alternatives previously addressed in the General Plan EIR.

ATTACHMENTS

- EIR Addendum 13-02
- Board of Supervisors Resolution
- Planning Commission Resolution

Mono County General Plan Land Use Amendment 13-003(a) & (b)
GENERAL PLAN EIR ADDENDUM#13-02
State Clearinghouse #98122016
September 12, 2013

INTRODUCTION AND DISCUSSION OF PROPOSED MODIFICATIONS

1. Transient Overlay Districts

Mono County has received applications to amend the General Plan Land Use Designation Maps to establish two separate Transient Rental Overlay Districts (TROD) to allow for nightly rentals. GPA 13-003(a) would establish a TROD on one parcel (APN 019-140-011) at 973 Lundy Lake Road, and GPA 13-003(b) would expand the existing TROD with an additional two adjoining parcels (APNs 016-096-005 and 016-098-011) at June Lake.

A Vacation Home Rental Permit will be required in accordance with Chapter 26 of the Mono County General Plan before commencing rentals of any dwellings. Vacation Home Rental Permits will address and regulate traffic and parking, guide tenant occupancy, establish minimum health and safety requirements, and require 24-hour property management, among other things.

ENVIRONMENTAL REVIEW & CEQA PROVISIONS FOR PREPARATION OF AN ADDENDUM TO A FINAL EIR

In 2001, Mono County certified an Environmental Impact Report (EIR) in conjunction with the adoption/amendment of its General Plan (SCH # 98122016) (the "General Plan EIR"). The General Plan EIR analyzed the impacts of designating areas of the county as SFR, ER, RR, or RMH, and assumed full buildout and use of those properties for all allowed uses. It also addressed and analyzed the impacts associated with the development of accessory dwelling units. As discussed below, an addendum to the General Plan EIR is the appropriate level of environmental review for the proposed amendments, because none of the conditions set forth in CEQA Guidelines section 15162 exist.

The California Environmental Quality Act (CEQA §15164[a]) states:

> *"(a) The lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred*."

In turn, §15162 states that preparation of a subsequent EIR is required where one or more of the following occurs:

> *"(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:*
>
> *(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;*
>
> *(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due*

to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete shows any of the following:

(A) the project will have one or more significant effects not discussed in the previous EIR or negative declaration;
(B) significant effects previously examined will be substantially more severe than shown in the previous EIR;
(C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
(D) mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative."

DISCUSSION OF IMPACTS

Establishing Transit Rental Overlay Districts that would allow nightly rentals proposed in the aforementioned residential areas (the "Project") does not require major revisions to the General Plan EIR because it does not involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects; there are not substantial changes with respect to the circumstances under which the project is undertaken; and there is not new information of substantial importance, which was not known and could not have been known with the exercise of due diligence at the time the previous EIR was certified as complete which shows any of the following listed above under headings (3) (A) through (3) (D), for the following reasons:

1. The proposed Transient Rental Overlay Districts will not have a significant effect on the environment or increase the severity of previously identified significant effects. The overlay district in June Lake consists of six adjoining lots, four containing single-family homes and two that are vacant. The Lundy Canyon overlay district consists of one large 10-acre parcel. The creation of a Transient Rental Overlay District (enables short-term rentals) but does not expand the types of structures allowed or the manner in which the vacant parcels can be developed in the future. Future development will be limited to the residential densities established in the underlying land use designation. Additionally, General Plan Land Use Element Chapter 26 further governs how transient rentals are to be conducted, which places much-more-stringent regulations on rentals than that of a home occupied by a full-time resident.

2. Additionally, even following designation and permitting for transient rental use, there is no change to the underlying property use. Single-family homes that are now used seasonally or periodically by the owner, or are rented on a long-term basis, will still be used as single-family homes and in a manner that is not substantially different from how they would be used if they were occupied by full-time residents or long-term renters. The General Plan EIR analyzed land use designations at buildout assuming full-time occupancy. Since there is virtually no difference in the use of a home being occupied by a full-time resident and its use by household that rents the home on a short-term basis, the environmental impacts to the neighborhood and surrounding areas are no different. Transient rentals, due to the intermittent and temporary nature of their use, will not create any additional impacts on traffic or air and water quality. Furthermore, since the occupancy and parking will be much more narrowly regulated by a required property manager,

the impacts on noise and street congestion will also be reduced. Accordingly, the impacts of the proposed project would not be increased beyond those analyzed in the General Plan EIR.

3. The establishment of Transient Rental Overlay Districts creates the possibility of a reduction in environmental impacts that exist at present, since transient uses would be subject to more-stringent restrictions than are applicable to full-time owner-occupied residences or residences subject to long-term lease. Specifically, these include restrictions on occupancy, parking and the requirement for oversight through local property management. Currently, there are no restrictions on how many occupants can use a single-family home, but the occupancy in homes used as transient rentals will be restricted by the number of bedrooms and/or any septic system limitations. Parking requirements will be site specific and - not only will have to meet the General Plan residential parking standards, but will be limited to on-site parking only. These measures in conjunction with local property management being available 24 hours to regulate noncompliant activities of tenants will minimize visual and noise impacts far beyond residences having full-time occupancy.

4. The change to the regulations affecting the size and permitting requirements of accessory dwelling units will not cause an environmental impact. The change reduces the potential intensity of allowed development and environmental impacts on parcels less than one acre in size.

CONCLUSION

CEQA Sections 15164(c) through 15164(e) states, *"An Addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration. The decision-making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project. A brief explanation of the decision not to prepare a subsequent EIR pursuant to §15162 shall be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.*"

The information presented above indicates that the proposed General Plan Amendment does not represent a substantive change to the number of significant effects, severity of effects, or the feasibility and/or effectiveness of applicable mitigation measures or alternatives previously addressed in the General Plan EIR. Therefore, a subsequent EIR is not required because none of the conditions set forth in CEQA Guidelines section 15162 exist for this project.

RESOLUTION R13-__

A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS APPROVING GENERAL PLAN AMENDMENT 13-003(a), ESTABLISHING A TRANSIENT RENTAL OVERLAY DISTRICT ONTO ASSESSOR PARCEL NUMBER (APN) 019-140-011

WHEREAS, In accordance with General Plan requirements, the property owner of APN 019-140-011 submitted a Transient Rental Overlay District application for a transient rental, which includes a General Plan Map Amendment (GPA); and

WHEREAS, the proposed General Plan Amendment 13-003 (a) in conjunction with a Vacation Home Rental Permit will allow the owners of Assessor's Parcel Number (APN) 019-140-011 to rent out Single-Family Residential homes on a transient or nightly basis; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) an Addendum to the Mono County General Plan EIR pursuant to CEQA section 15164 has been prepared; and

WHEREAS, the Mono County Planning Commission did on September 12, 2013 hold a noticed and advertised public hearing to hear all testimony relevant to the project, and upon conclusion of the hearing, recommended via resolution that the proposed transient rental overlay district be approved by the Mono County Board of Supervisors; and

WHEREAS, the Board of Supervisors did on October 8, 2013, hold a noticed and advertised public hearing to hear all testimony relevant to the General Plan Amendment.

NOW, THEREFORE, BE IT RESOLVED THAT, having considered the environmental addendum and taken into consideration all evidence and testimony before it, including the recommendation of the Planning Commission, the Mono County Board of Supervisors, in conformance with the Mono County General Plan, Chapter 48, Section 48.020, hereby: finds that the proposed changes are consistent with the General Plan and approves General Plan Amendment 13-003(a) adding a Transient Rental Overlay District to Assessor Parcel Number: 019-140-011.

PASSED AND ADOPTED this 8th day of October 2013, by the following vote of the Board of Supervisors, County of Mono:

AYES :

NOES :

ABSENT :

ABSTAIN :

_____

Byng Hunt, Chair
Mono County Board of Supervisors

ATTEST:

_____

Lynda Roberts, Board Clerk

APPROVED AS TO FORM:

_____

Stacey Simon, Assistant County Counsel

RESOLUTION R13-05

A RESOLUTION OF THE MONO COUNTY PLANNING COMMISSION RECOMMENDING APPROVAL OF GENERAL PLAN AMENDMENT 13-003(a), PLACING A TRANSIENT OVERLAY DISTRICT ON ONE PARCEL AT 973 LUNDY LAKE ROAD (APN 019-140-011)

WHEREAS, in accordance with General Plan Requirements, the property owner has submitted a Transient Overlay District application for a transient rental, which includes a General Plan Map Amendment (GPA); and

WHEREAS, the proposed General Plan Amendment 13-003(a) in conjunction with a Vacation Home Rental Permit will allow the owners of Assessor's Parcel Number (APN) 019-140-011 to rent out single-family residential homes on a transient or nightly basis; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) an Addendum to the Mono County General Plan EIR pursuant to CEQA section 15164 has been prepared; and

WHEREAS, the Planning Commission did on September 12, 2013, hold a noticed and advertised public hearing to hear all testimony relevant to the General Plan Amendment.

NOW, THEREFORE, BE IT RESOLVED THAT, in consideration of evidence and testimony presented at the public hearing and in accordance with Chapter 48 of the Land Use Element of the General Plan, the Planning Commission finds as follows with respect to the proposed GPA:

1. *The proposed change in the land use designation is consistent with the text and maps of this General Plan.*

   The project promotes the following General Plan's countywide policies: Objective D states the County should provide for commercial development to serve both visitors and residents; Policy 4 allows for the integration of small-scale commercial uses with associated residential uses; Objective H maintains and enhances the local economy; and Action 5.1 encourages and promotes the preservation and expansion of the county's tourist and recreation-based economy. The project provides for additional visitor lodging and is consistent with the text and maps of the General Plan.

2. *The proposed change in land use designation is consistent with the goals and policies contained within any applicable area plan.*

   The project meets "Objective B Enhance and support the existing tourism-related economy, Policy 3: Support a sufficient bed base and visitor accommodations to support the tourism industry" of the Mono Basin Area Plan because it is providing lodging alternatives and additional options for visitors to the area.

3. *The site of the proposed change in land use designation is suitable for any of the land uses permitted within that proposed land use designation.*

   The project is not changing the underlying land use designation of Single-Family Residential (SFR), but is adding a Transient Rental Overlay District that will allow the addition of nightly

rentals only in single-family dwellings. Chapter 25 in the Mono County General Plan allows Transient Rental Overlay Districts to be applied to the SFR, RR, ER, MFR-L, and RMH land use designations. Chapter 26 in the Mono County General Plan requires that any homes being rented within the overlay district obtain a Vacation Home Rental Permit that will regulate parking, guide tenant occupancy, establish minimum health and safety requirements, and require 24-hour property management, among other things.

4. *The proposed change in land use designation is reasonable and beneficial at this time.*

   The proposed change to add a Transient Rental Overlay District is reasonable because it expands the community's visitor-oriented economy by increasing the variety of lodging options within the Mono Basin.

5. *The proposed change in land use designation will not have a substantial adverse effect on surrounding properties.*

   The application of Transient Rental Overlay District on Assessor Parcel Number 019-140-011 will not create undue hardship on adjacent properties. Single-family homes that are used seasonally or periodically by the owner, or are rented on a long-term basis, will still be used as single-family homes and in a manner that is not substantially different from how they would be used if they were occupied by full-time residents or long-term renters. The General Plan EIR analyzed land use designations at buildout assuming full-time occupancy. Transient rentals will have similar visual characteristics as a home having seasonal or full-time occupancy. Furthermore, homes used as rentals within the district are subject to more-stringent restrictions than applicable to full-time owner-occupied residences or residences subject to long-term lease. Specifically, these include restrictions on occupancy based on the number of bedrooms, parking and the requirement for oversight through local property management. These measures in conjunction with local property management being available 24 hours to regulate noncompliant activities of tenants will minimize visual and noise impacts far beyond residences having full-time occupancy.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT, having considered the environmental addendum and taken into consideration all evidence and testimony before it, the Mono County Planning Commission, in conformance with the Mono County General Plan, Chapter 48, Section 48.020, hereby finds that the proposed changes are consistent with the General Plan and recommends that the Board of Supervisors approve General Plan Amendment 13-003(a) adding a Transient Overlay District to APN 019-140-011.

PASSED AND ADOPTED this 12th day of September 2013, by the following vote of the Planning Commission, County of Mono:

AYES : Scott Bush, Chris I. Lizza, Dan Roberts, Rodger B. Thompson
NOES :
ABSENT : Mary Pipersky
ABSTAIN :

_____

Dan Roberts, Chair
Mono County Planning Commission

ATTEST:

_____
C.D. Ritter, Commission Secretary

APPROVED AS TO FORM:

_____
Stacey Simon, Assistant County Counsel

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE	October 8, 2013	**DEPARTMENT**	Community Development - Planning Division
ADDITIONAL DEPARTMENTS			
TIME REQUIRED	15 minutes (5 minutes presentation; 10 minutes discussion)	**PERSONS APPEARING BEFORE THE BOARD**	Courtney Weiche
SUBJECT	General Plan Amendment 13-003 (b)		

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Public hearing to consider the Planning Commission recommendation to approve General Plan Amendment 13-003 (b) to amend the General Plan Land Use Designation Map to add 9 Silver Meadow Lane (APN 016-096-005) and 93 Nevada St. (APN 016-098-011) to the established Transient Rental Overlay District at June Lake to allow for nightly rentals.

RECOMMENDED ACTION:

Conduct public hearing. Take the following actions: (1) adopt Addendum #13-003 (a & b) to the Mono County General Plan EIR; and (2) adopt proposed resolution adding 9 Silver Meadow Lane (APN 016-096-005) and 93 Nevada St. (APN 016-098-011) to the established Transient Rental Overlay District at June Lake to allow for nightly rentals.

FISCAL IMPACT:

Potential increased revenues generated from transient occupancy taxes.

CONTACT NAME: Courtney Weiche

PHONE/EMAIL: 760.924.1803 / cweiche@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☐ YES ☑ NO

ATTACHMENTS:

Click to download

- Staff Report
- GPA Addendum 13-002
- Proposed Resolution
- Planning Commission Resolution

History

Time	Who	Approval
10/2/2013 2:37 PM	County Administrative Office	Yes
10/3/2013 9:28 AM	County Counsel	Yes
10/2/2013 3:58 PM	Finance	Yes

Mono County
Community Development Department

PO Box 347
Mammoth Lakes, CA 93546
760.924.1800, fax 924.1801
commdev@mono.ca.gov

PO Box 8
Bridgeport, CA 93517
760.932.5420, fax 932.5431
www.monocounty.ca.gov

October 8, 2013

TO: Mono County Board of Supervisors

FROM: Courtney Weiche, Associate Planner

RE: General Plan Amendment 13-003, including:
A. GPA 13-003(a) Kibbee Transient Rental Overlay District at Lundy Canyon
B. GPA 13-003(b) Anderson Transient Overlay District at June Lake

RECOMMENDED ACTION

1. Approve Resolution R13-__, accepting the Planning Commission's recommendation and Addendum 13-02 to the Mono County General Plan EIR and approving General Plan Amendment 13-003(a); and

2. Approve Resolution R13-__, accepting the Planning Commission's recommendation and Addendum 13-02 to the Mono County General Plan EIR and approving General Plan Amendment 13-003(b).

BACKGROUND

The Board of Supervisors approved General Plan Amendment 12-001 in December 2012 that added Chapter 25, Transient Overlay Districts, and Chapter 26, Transient Rental Standards and Enforcement, to the Mono County General Plan Land Use Element. The intent of the amendment was to allow transient rentals within compatible residential neighborhoods to increase tourism opportunities and provide additional economic support to homeowners.

The creation of Chapters 25 & 26 provides a General Plan tool to allow transient rentals in specific neighborhoods through a General Plan Amendment application for a Transient Rental Overlay District (TROD).

A TROD application requires that the shape of any proposed district be contiguous, compact and orderly. Factors used to determine compact and orderly include street-frontage sharing, adjoining yards, and existing characteristics that define residential neighborhood boundaries such as subdivision boundaries, major roads, natural features, large undeveloped parcels and commercial or civic land uses.

Chapter 26 provides regulations that ensure transient rentals meet minimum safety requirements, provide 24-hour local property management, allow for enhanced enforcement of unpermitted transient operators, and provide means for minimizing potential neighborhood conflicts such as parking and noise. If a Transient Rental Overlay District is approved, individual homeowners in the district would then be required to submit a Transient Rental application in conformance with the regulations specified in Chapter 26 before commencing short-term rentals.

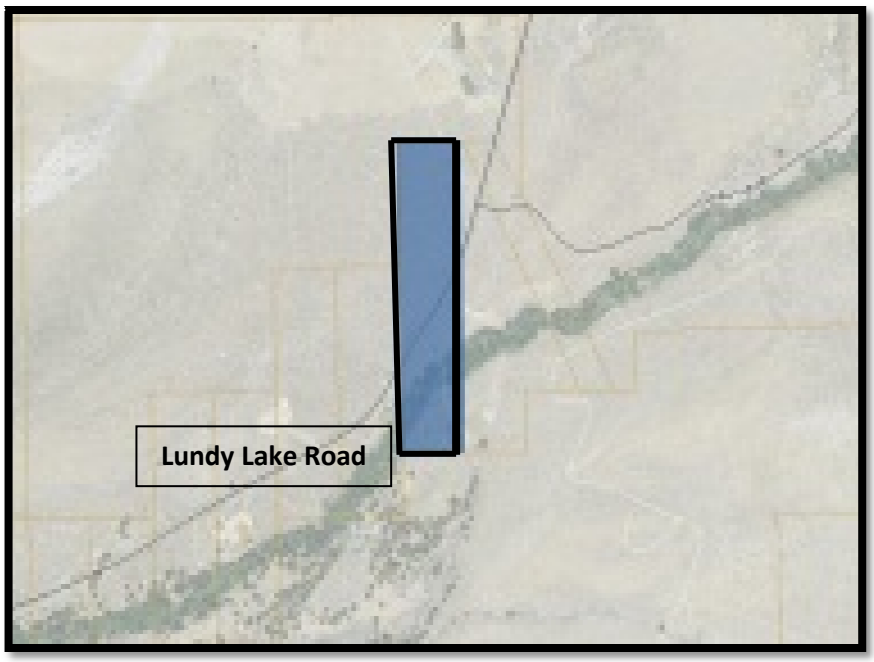
GENERAL PLAN AMENDMENT 13-003(a) KIBBEE

The proposed Transient Rental Overlay District (TROD) is located at 973 Lundy Lake Road (APN 019-140-011). One single-family residence is located on the rural 10 acre parcel. Access is off Lundy Lake Road onto a long dirt driveway leading to the south end of the property. To the east and west are large parcels designated Single-Family Residential. Other surrounding designated land uses include Public

Facility (owned by Southern California Edison) and Resource Management (owned by the Bureau of Land Management).

Following an invitation to join the proposed TROD, adjoining neighbors called with concerns and questions regarding the creation of a TROD, some of which included enforcement of noise complaints, property manager requirements, and additional risk of vandalism because of the rural setting. Most all concerns seemed to have been satisfied after reviewing and clarifying the TROD-related General Plan chapters. To date, no formal comment letters have been received. Any comments received will be provided and included as part of the record at the hearing.

Project Location



LAND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE
The LDTAC met July 1, 2013, to review and provide input on the project proposal. The LDTAC accepted the proposed Transient Rental Overlay District application and recommended moving forward with processing the permit.

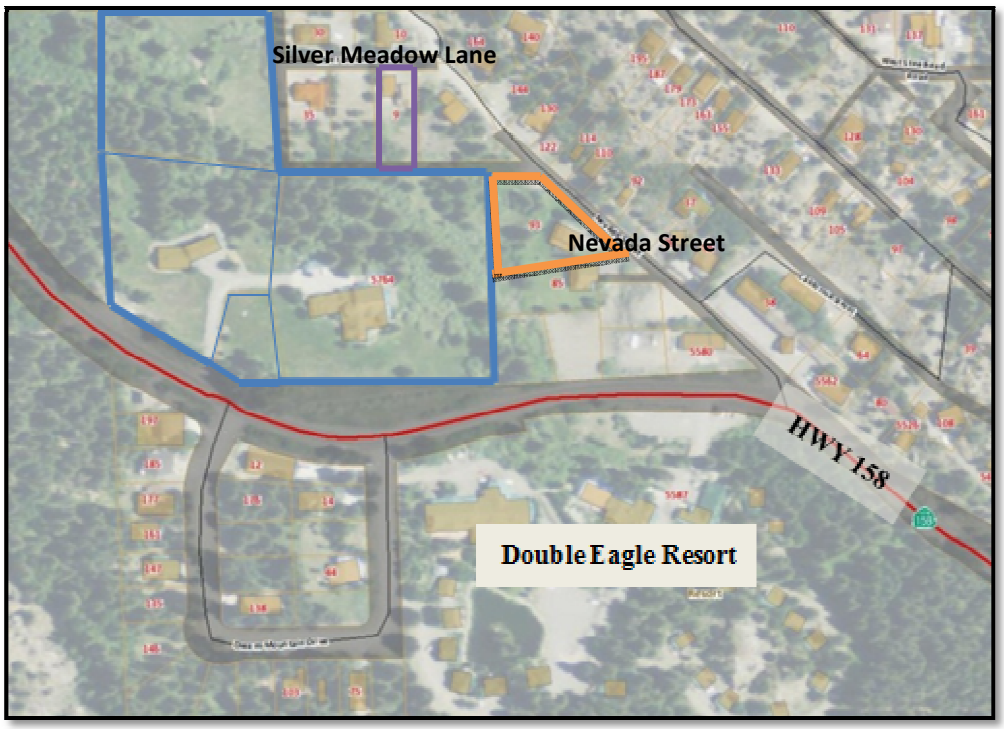
PLANNING COMMISSION
The Planning Commission considered the item at a public hearing on September 12, 2013. No members of the public spoke in opposition of the project. The Planning Commission subsequently adopted Resolution 12-05 (see attachment) recommending acceptance of the EIR Addendum and that the Board of Supervisors approve GPA 13-002 (a). The Board of Supervisors is required to consider the Planning Commission recommendation at the public hearing and may approve, modify or disapprove the recommendation.

GENERAL PLAN AMENDMENT 13-003(b) Anderson
The proposed expansion of the existing Transient Rental Overlay District is located in the Down Canyon area of June Lake along Highway 158 and proposes to include two additional adjoining parcels at 9 Silver Meadow Lane (APNs 016-096-005) and 93 Nevada St. (016-098-011). Both parcels are designated Single-Family Residential. The Double Eagle Resort is located across Highway 158 and adjoins other commercial uses that allow for transient rentals.

A notice to surrounding property owners was sent out inviting them to join the proposed TROD. One request was made by Brian Brosgart, 93 Nevada St. (APN 016-098-011), to join the TROD and was recommended by the Planning Commission to be included. Additionally, adjoining neighbors did have many questions regarding the rules and regulations of the TROD chapters of the General Plan. Most all concerns seemed to have been mitigated once the requirements were clarified by staff.

No formal comment letters have been received to date, however following the Planning Commission hearing, an email was received with concerns regarding property boundaries and access. The applicant has indicated their intent to address the neighbor's concerns; the applicant's efforts will be verified by staff during issuance of the subsequent Vacation Home Rental Permit.

Project Location



*Blue = Existing TROD
*Purple = Original TROD expansion proposal by Anderson
*Orange = Request by Brosgart to join in proposed TROD

LAND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE

The LDTAC met August 5, 2013, to review and provide input on the project proposal. The LDTAC

accepted the proposed Transient Rental Overlay District application and recommended moving forward with processing the permit.

PLANNING COMMISSION

The Planning Commission considered the item at a public hearing on September 12, 2013. No members of the public spoke in opposition of the project. The Planning Commission subsequently adopted Resolution 12-06 (see attachment) recommending acceptance of the EIR Addendum and that the Board of Supervisors approve GPA 13-002 (b), with the inclusion of the adjacent property owned by Brian Brosgart, 93 Nevada St. (APN 016-098-011), The Board of Supervisors is required to consider the Planning Commission recommendation at the public hearing and may approve, modify or disapprove the recommendation.

GENERAL PLAN CONSISTENCY

The proposed general plan amendment complies with existing General Plan, Countywide Policies:

Objective H Maintain and enhance the local economy.

Policy 5: Promote diversification and continued growth of the county's economic base.

Action 5.1: Encourage and promote the preservation and expansion of the county's tourist and recreation based economy.

The June Lake Area Plan encourages providing a wide range of commercial and residential uses. The project provides for additional visitor lodging for the tourist-based economy by providing a variety of lodging options within the June Lake Loop.

CEQA COMPLIANCE

An addendum to the county General Plan EIR has been prepared for the proposed project. The impacts of the proposed project will not result in a substantive change to the number of significant effects, severity of effects, or the feasibility and/or effectiveness of applicable mitigation measures or alternatives previously addressed in the General Plan EIR.

ATTACHMENTS

- EIR Addendum 13-02
- Board of Supervisors Resolution
- Planning Commission Resolution

Mono County General Plan Land Use Amendment 13-003(a) & (b)
GENERAL PLAN EIR ADDENDUM#13-02
State Clearinghouse #98122016
September 12, 2013

INTRODUCTION AND DISCUSSION OF PROPOSED MODIFICATIONS

1. Transient Overlay Districts

Mono County has received applications to amend the General Plan Land Use Designation Maps to establish two separate Transient Rental Overlay Districts (TROD) to allow for nightly rentals. GPA 13-003(a) would establish a TROD on one parcel (APN 019-140-011) at 973 Lundy Lake Road, and GPA 13-003(b) would expand the existing TROD with an additional two adjoining parcels (APNs 016-096-005 and 016-098-011) at June Lake.

A Vacation Home Rental Permit will be required in accordance with Chapter 26 of the Mono County General Plan before commencing rentals of any dwellings. Vacation Home Rental Permits will address and regulate traffic and parking, guide tenant occupancy, establish minimum health and safety requirements, and require 24-hour property management, among other things.

ENVIRONMENTAL REVIEW & CEQA PROVISIONS FOR PREPARATION OF AN ADDENDUM TO A FINAL EIR

In 2001, Mono County certified an Environmental Impact Report (EIR) in conjunction with the adoption/amendment of its General Plan (SCH # 98122016) (the "General Plan EIR"). The General Plan EIR analyzed the impacts of designating areas of the county as SFR, ER, RR, or RMH, and assumed full buildout and use of those properties for all allowed uses. It also addressed and analyzed the impacts associated with the development of accessory dwelling units. As discussed below, an addendum to the General Plan EIR is the appropriate level of environmental review for the proposed amendments, because none of the conditions set forth in CEQA Guidelines section 15162 exist.

The California Environmental Quality Act (CEQA §15164[a]) states:

> *"(a) The lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred*."

In turn, §15162 states that preparation of a subsequent EIR is required where one or more of the following occurs:

> *"(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:*
>
> *(1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;*
>
> *(2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due*

to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete shows any of the following:

(A) the project will have one or more significant effects not discussed in the previous EIR or negative declaration;
(B) significant effects previously examined will be substantially more severe than shown in the previous EIR;
(C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
(D) mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative."

DISCUSSION OF IMPACTS

Establishing Transit Rental Overlay Districts that would allow nightly rentals proposed in the aforementioned residential areas (the "Project") does not require major revisions to the General Plan EIR because it does not involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects; there are not substantial changes with respect to the circumstances under which the project is undertaken; and there is not new information of substantial importance, which was not known and could not have been known with the exercise of due diligence at the time the previous EIR was certified as complete which shows any of the following listed above under headings (3) (A) through (3) (D), for the following reasons:

1. The proposed Transient Rental Overlay Districts will not have a significant effect on the environment or increase the severity of previously identified significant effects. The overlay district in June Lake consists of six adjoining lots, four containing single-family homes and two that are vacant. The Lundy Canyon overlay district consists of one large 10-acre parcel. The creation of a Transient Rental Overlay District (enables short-term rentals) but does not expand the types of structures allowed or the manner in which the vacant parcels can be developed in the future. Future development will be limited to the residential densities established in the underlying land use designation. Additionally, General Plan Land Use Element Chapter 26 further governs how transient rentals are to be conducted, which places much-more-stringent regulations on rentals than that of a home occupied by a full-time resident.

2. Additionally, even following designation and permitting for transient rental use, there is no change to the underlying property use. Single-family homes that are now used seasonally or periodically by the owner, or are rented on a long-term basis, will still be used as single-family homes and in a manner that is not substantially different from how they would be used if they were occupied by full-time residents or long-term renters. The General Plan EIR analyzed land use designations at buildout assuming full-time occupancy. Since there is virtually no difference in the use of a home being occupied by a full-time resident and its use by household that rents the home on a short-term basis, the environmental impacts to the neighborhood and surrounding areas are no different. Transient rentals, due to the intermittent and temporary nature of their use, will not create any additional impacts on traffic or air and water quality. Furthermore, since the occupancy and parking will be much more narrowly regulated by a required property manager,

the impacts on noise and street congestion will also be reduced. Accordingly, the impacts of the proposed project would not be increased beyond those analyzed in the General Plan EIR.

3. The establishment of Transient Rental Overlay Districts creates the possibility of a reduction in environmental impacts that exist at present, since transient uses would be subject to more-stringent restrictions than are applicable to full-time owner-occupied residences or residences subject to long-term lease. Specifically, these include restrictions on occupancy, parking and the requirement for oversight through local property management. Currently, there are no restrictions on how many occupants can use a single-family home, but the occupancy in homes used as transient rentals will be restricted by the number of bedrooms and/or any septic system limitations. Parking requirements will be site specific and - not only will have to meet the General Plan residential parking standards, but will be limited to on-site parking only. These measures in conjunction with local property management being available 24 hours to regulate noncompliant activities of tenants will minimize visual and noise impacts far beyond residences having full-time occupancy.

4. The change to the regulations affecting the size and permitting requirements of accessory dwelling units will not cause an environmental impact. The change reduces the potential intensity of allowed development and environmental impacts on parcels less than one acre in size.

CONCLUSION

CEQA Sections 15164(c) through 15164(e) states, *"An Addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration. The decision-making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project. A brief explanation of the decision not to prepare a subsequent EIR pursuant to §15162 shall be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.*"

The information presented above indicates that the proposed General Plan Amendment does not represent a substantive change to the number of significant effects, severity of effects, or the feasibility and/or effectiveness of applicable mitigation measures or alternatives previously addressed in the General Plan EIR. Therefore, a subsequent EIR is not required because none of the conditions set forth in CEQA Guidelines section 15162 exist for this project.

RESOLUTION R13-__

A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS APPROVING GENERAL PLAN AMENDMENT 13-003(b), EXPANDING AN EXISTING TRANSIENT RENTAL OVERLAY DISTRICT ONTO ADJOINING ASSESSOR PARCEL NUMBERS (APN) 016-096-005 & 016-098-011 IN JUNE LAKE

WHEREAS, In accordance with General Plan requirements, the property owner of APN 016-096-005 submitted a Transient Rental Overlay District application for a transient rental, which includes a General Plan Map Amendment (GPA); and

WHEREAS, the proposed General Plan Amendment 13-003 (b) in conjunction with a Vacation Home Rental Permit will allow the owners of Assessor's Parcel Numbers (APN) 016-096-005 & 016-098-011 to rent out Single-Family Residential homes on a transient or nightly basis; and

WHEREAS, as allowed by the General Plan, and following notice of the proposal to surrounding property owners, the property owner of the adjacent APN 016-098-011 subsequently submitted a request to be included in Transient Rental Overlay District; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) an Addendum to the Mono County General Plan EIR pursuant to CEQA section 15164 has been prepared; and

WHEREAS, the Mono County Planning Commission did on September 12, 2013 hold a noticed and advertised public hearing to hear all testimony relevant to the project, and upon conclusion of the hearing, recommended via resolution that the proposed transient rental overlay expansion be approved for both properties by the Mono County Board of Supervisors; and

WHEREAS, the Board of Supervisors did on October 8, 2013, hold a noticed and advertised public hearing to hear all testimony relevant to the General Plan Amendment.

NOW, THEREFORE, BE IT RESOLVED THAT, having considered the environmental addendum and taken into consideration all evidence and testimony before it, including the recommendation of the Planning Commission, the Mono County Board of Supervisors, in conformance with the Mono County General Plan, Chapter 48, Section 48.020, hereby: finds that the proposed changes are consistent with the General Plan and approves General Plan Amendment 13-003 (b) adding a Transient Rental Overlay District to Assessor Parcel Numbers: 016-096-005 & 016-098-011.

PASSED AND ADOPTED this 8th day of October 2013, by the following vote of the Board of Supervisors, County of Mono:

AYES :

NOES :

ABSENT :

ABSTAIN :

_____

Byng Hunt, Chair
Mono County Board of Supervisors

ATTEST:

_____

Lynda Roberts, Board Clerk

APPROVED AS TO FORM:

_____

Stacey Simon, Assistant County Counsel

RESOLUTION R13-06

A RESOLUTION OF THE MONO COUNTY PLANNING COMMISSION RECOMMENDING APPROVAL OF GENERAL PLAN AMENDMENT 13-003(b), EXPANDING A TRANSIENT RENTAL OVERLAY DISTRICT ON TWO ADJOINING PARCELS IN JUNE LAKE. ASSESSOR PARCEL NUMBERS 016-096-005 & 016-098-011

WHEREAS, In accordance with General Plan Requirements, the property owner has submitted a Transient Overlay District application for a transient rental, which includes a General Plan Map Amendment (GPA); and

WHEREAS, the proposed General Plan Amendment 13-003(b) in conjunction with a Vacation Home Rental Permit will allow the owners of Assessor's Parcel Numbers (APN) 016-096-005 & 016-098-011 to rent out Single-Family Residential homes on a transient or nightly basis; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) an Addendum to the Mono County General Plan EIR pursuant to CEQA section 15164 has been prepared; and

WHEREAS, the Planning Commission did on September 12, 2013, hold a noticed and advertised public hearing to hear all testimony relevant to the General Plan Amendment; and

NOW, THEREFORE, BE IT RESOLVED THAT, in consideration of evidence and testimony presented at the public hearing and in accordance with Chapter 48 of the Land Use Element of the General Plan, the Planning Commission finds as follows with respect to the proposed GPA.

1. *The proposed change in the land use designation is consistent with the text and maps of this General Plan.*
   The project promotes the following General Plan's countywide policies: Objective D states the County should provide for commercial development to serve both visitors and residents; Policy 4 allows for the integration of small-scale commercial uses with associated residential uses; Objective H maintains and enhances the local economy; and Action 5.1 encourages and promotes the preservation and expansion of the county's tourist and recreation-based economy. The project provides for additional visitor lodging and encourages tourist-based economy and is consistent with the text and maps of the General Plan.

2. *The proposed change in land use designation is consistent with the goals and policies contained within any applicable area plan.*
   The project is located within the June Lake Area Planning Area and is in close proximity to other established lodging facilities. The June Lake Area Plan encourages providing a wide range of commercial and residential uses. The project provides for additional visitor lodging for the tourist-based economy by providing a variety of lodging options within the June Lake Loop.

3. *The site of the proposed change in land use designation is suitable for any of the land uses permitted within that proposed land use designation.*
   The project is not changing the underlying land use designation of Single-Family Residential (SFR), but is adding a Transient Rental Overlay District which will allow the addition of nightly rentals only in single-family dwellings. Chapter 25 in the Mono County General Plan allows Transient Rental Overlay Districts to be applied to the SFR, RR, ER, MFR-L, and RMH land

use designations. Chapter 26 in the Mono County General Plan requires that any homes being rented within the overlay district obtain a Vacation Home Rental Permit that will regulate parking, guide tenant occupancy, establish minimum health and safety requirements, and require 24-hour property management, among other things.

4. *The proposed change in land use designation is reasonable and beneficial at this time.*
The proposed change to add a Transient Rental Overlay District is reasonable because of the close proximity to other lodging establishments and is beneficial to the community's visitor-oriented economy by expanding the variety of lodging options within June Lake.

5. *The proposed change in land use designation will not have a substantial adverse effect on surrounding properties.*
The application of Transient Rental Overlay District on Assessor Parcel Numbers 016-096-005 & 016-098-011 will not create undue hardship on adjacent properties. Single-family homes that are used seasonally or periodically by the owner, or are rented on a long-term basis, will still be used as single-family homes and in a manner that is not substantially different from how they would be used if they were occupied by full-time residents or long-term renters. The General Plan EIR analyzed land use designations at buildout assuming full-time occupancy. Transient rentals will have similar visual characteristics as a home having seasonally or full-time occupancy. Furthermore, homes used as rentals within the district are subject to more stringent restrictions than applicable to full time owner-occupied residences or residences subject to long-term lease. Specifically, these include restrictions on occupancy based on the number of bedrooms, parking and the requirement for oversight through local property management. These measures in conjunction with local property management being available 24 hours to regulate non-compliant activities of tenants will minimize visual and noise impacts far beyond residences having full-time occupancy. Moreover, Chapter 26 in the General Plan provides enhanced enforcement mechanisms to prevent non-permitted or unauthorized transient rentals within residential zones.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT, having considered the environmental addendum and taken into consideration all evidence and testimony before it, the Mono County Planning Commission, in conformance with the Mono County General Plan, Chapter 48, Section 48.020, hereby: finds that the proposed changes are consistent with the General Plan and recommends that the Board of Supervisors approve General Plan Amendment 13-003(b) adding a Transient Overlay District to Assessor Parcel Numbers: 016-096-005 & 016-098-011

PASSED AND ADOPTED this 12th day of September 2013, by the following vote of the Planning Commission, County of Mono:

AYES : Scott Bush, Chris I. Lizza, Dan Roberts, Rodger B. Thompson

NOES :

ABSENT : Mary Pipersky

ABSTAIN :

Dan Roberts, Chair
Mono County Planning Commission

ATTEST:

_____
C.D. Ritter, Commission Secretary

APPROVED AS TO FORM:

_____
Stacey Simon, Assistant County Counsel

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE	October 8, 2013	**DEPARTMENT**	Community Development - Planning Division
ADDITIONAL DEPARTMENTS	County Counsel, Public Works		
TIME REQUIRED	45 minutes (15 minutes presentation; 30 minutes discussion)	**PERSONS APPEARING BEFORE THE BOARD**	Scott Burns
SUBJECT	Easement Request for Lundy Return Conveyence System		

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Consider request by Southern California Edison (SCE) for easement on Mono County property (APN 019-100-000) for construction of a new Mill Creek Return Conveyance Facility.

RECOMMENDED ACTION:

Consider Southern California Edison (SCE) request for easement on Mono County property (APN: 019-100-008-000) for construction of a new Mill Creek Return Conveyance Facility and take one of the following actions: 1.Direct staff to initiate Environmental Impact Report (EIR) preparation to comply with the California Environmental Act (CEQA), with all costs borne by SCE, so that the Board may, at a later time, consider whether to grant the requested easement; or 2. Deny the request.

FISCAL IMPACT:

No impact to general fund if denied. To allow for consideration of approval, a yet-to-be determined cost for preparation and processing of an EIR would be required to be fully funded by SCE.

CONTACT NAME: Scott Burns

PHONE/EMAIL: (760) 924-1807 / sburns@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

SCE

MINUTE ORDER REQUESTED:

☑ YES ☐ NO

ATTACHMENTS:

Click to download

- Staff Report
- Attachment
- Attachment
- Attachment

History

Time	Who	Approval
9/25/2013 4:48 PM	County Administrative Office	Yes
10/2/2013 1:46 PM	County Counsel	Yes
10/2/2013 4:04 PM	Finance	Yes

Mono County
Community Development Department

P.O. Box 347
Mammoth Lakes, CA 93546
(760) 924-1800, fax 924-1801
www.monocounty.ca.gov

P.O. Box 8
Bridgeport, CA 93517
(760) 932-5420, fax 932-5431
www.monocounty.ca.gov

October 8, 2013

TO: Honorable Chair and Members of the Board of Supervisors

FROM: Scott Burns, Community Development Director

RE: Mono County Easement Request for Lundy Return Conveyance System

RECOMMENDATION

Consider Southern California Edison (SCE) request for easement on Mono County property (APN: 019-100-008-000) for construction of a new Mill Creek Return Conveyance Facility and take one of the following actions:

1. Direct staff to initiate Environmental Impact Report (EIR) preparation to comply with the California Environmental Act (CEQA), with all costs borne by SCE, so that the Board may, at a later time, consider whether to grant the requested easement; or

2. Deny the request.

FISCAL IMPACT

No impact to general fund if denied. To allow for consideration of approval, a yet-to-be determined cost for preparation and processing of an EIR would be required to be fully funded by SCE.

DISCUSSION

Southern California Edison (SCE) has requested a 50' wide underground pipeline easement on Mono County property (APN: 019-100-008-000) for construction of a new Mill Creek Return Conveyance Facility to comply with a 2005 Settlement Agreement which it entered into regarding a new license for the Lundy Hydroelectric Project (Attachment 1). The requested easement would consist of approximately 1.115 acres of area on property owned by Mono County; the attached Pre-Application Briefing Materials provide an overview of the project description and circumstances (Attachment 2).

SCE representatives have approached County staff regarding the process for requesting/obtaining such an easement from the County. The issue has been considered in a pre-application review by the Land Development Technical Advisory

Committee, and the procedure for preparation of an EIR under CEQA has been reviewed.

However, because the request is not a "development application," but rather a request for an easement from the County, there is a threshold issue which must be answered before CEQA review is commenced. Specifically, is the County even willing to consider granting SCE's request for an easement, such that SCE (and the County) should invest significant staff time and resources in conducting environmental review? Given the conveyance facility concerns previously expressed by the Board of Supervisors (Attachment 3) regarding impacts to County property at Conway Ranch and potential effects on regional resources, there may not be interest in granting the easement. Because an Environmental Impact Report (or negative declaration) is not required for denial of a project under CEQA, significant time and EIR costs may be avoided if the County has no intention of ultimately granting the easement request.

ATTACHMENTS

1. SCE Easement Request and Description
2. Pre-Application Briefing Materials
3. Mono County Board of Supervisors Protest and Comments. October 19, 2010

SOUTHERN CALIFORNIA EDISON
An EDISON INTERNATIONAL Company

November 2, 2012

Attn: Scott Burns
Mono County Community Development, Planning Division
Mammoth Lakes Office
437 Old Mammoth Road
Mammoth Lakes, CA 93546

SUBJECT: Return Conveyance System, Lundy Hydroelectric Project – Request for Easement on Mono County property: APN: 019-100-008-000

Southern California Edison (SCE) operates the Lundy Hydroelectric Project located in Mono County, California. The project is located within the Mono Lake Basin on the eastern flank of the Sierra Nevada approximately 14 miles south of Bridgeport, and 6.6 miles north of Lee Vining (Exhibit 1: Regional Location Map). This 3 megawatt (MW) facility was placed into operation in 1911 and is currently operated under a 30-year license issued on 3 March 1999 by the Federal Energy Regulatory Commission (FERC; Project No. 1390), pursuant to the Federal Power Act of 1935 (16 U.S.C. 791 et seq.).

On 1 December 1981, SCE filed with the FERC an application for a new license for the Lundy Hydroelectric Project. Subsequently, the FERC issued a new license on 3 March 1999. Ultimately, SCE and most, but not all, of the negotiating parties reach a Settlement Agreement in January 2005.

As part of the Settlement Agreement, SCE agreed to construct a new Mill Creek Return Conveyance Facility designed to convey water from the Lundy Powerhouse back to Mill Creek which would correct for the capacity limitations of the historical Return Ditch. Ultimately, the settling parties agreed that a new Mill Creek Return Conveyance Facility, currently called the "Return Conveyance System" (RCS) would be designed to a maximum capacity of 52 cfs.

The RCS is being constructed within the existing Lundy Return Ditch alignment. A portion of the RCS will be constructed on property owned by Mono County (APN: 019-100-008-000). Therefore, SCE needs to acquire an easement from Mono County in order to proceed with construction of the RCS.

An easement document and legal description is attached to this correspondence for your review. Please review the associated documents and contact me with any follow up comments. If you agree with the terms of the easement please route for signature and return the original document to my attention. IF you have further comments or questions we can schedule a meeting or conference call to address them. Please also let me know if there are additional documents you need in order to make a decision.

Real Properties
2131 Walnut Grove Ave.
Rosemead, CA 91170

If you should have any questions or would like to further discuss this offer, please feel free to contact me at 626-302-4344 or via e-mail at justin.larson@sce.com

Sincerely,

Justin K. Larson
Real Properties, Southern California Edison

CC: John Irwin, SCE
Dan Golden , SCE

Enclosures: Grant of Easement
Exhibit Map

Real Properties
2131 Walnut Grove Ave.
Rosemead, CA 91170

RECORDING REQUESTED BY

SOUTHERN CALIFORNIA EDISON COMPANY

WHEN RECORDED MAIL TO

SOUTHERN CALIFORNIA EDISON COMPANY
2131 WALNUT GROVE AVENUE
G03 – 2ND FLOOR
ROSEMEAD, CA 91770

ATTN: TITLE & REAL ESTATE SERVICES

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT OF EASEMENT

Location: Unincorporated
A.P.N. 019-100-008-000
RP FILE: ACQ202064238
SCE Doc No. 503814

DOCUMENTARY TRANSFER TAX $_____ _____COMPUTED ON FULL VALUE OF PROPERTY CONVEYED _____OR COMPUTED ON FULL VALUE LESS LIENS AND ENCUMBRANCES REMAINING AT TIME OF SALE _____ SO. CALIF. EDISON CO. SIGNATURE OF DECLARANT OR AGENT DETERMINING TAX FIRM NAME	Serial No. 69564A Service Order 800923065 Approved Real Properties Department BY LC DATE 10/26/2012

COUNTY OF MONO, a political subdivision of the State of California, hereinafter called "Grantor", for a valuable consideration hereby grants to SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, its successors and assigns, hereinafter called "Grantee", the right to lay, construct, reconstruct, use, maintain, operate, repair, replace, renew, and remove pipelines with necessary and proper valves and other appliances and fittings for use in connection with said pipelines, together with adequate protection therefore, for the transportation of water or other substances in, on, over, through, under, or along a strip of land fifty (50) feet wide, hereinafter described and designated as "Right of Way Strip," lying within that certain real property of the Grantor, situated in the County of Mono, State of California, described as follows:

The South half of the Northwest quarter and the North half of the Southwest quarter of Section 12, Township 2 North, Range 25 East, MDM, in the County of Mono, State of California, according to the Official Plat thereof.

The said right of way strip is more particularly described on the Exhibit "A" and more particularly shown on the Exhibit "B", both attached hereto and by this reference made a part hereof.

Grantor hereby also grants to Grantee, its successors and assigns, and its and their contractors, agents and employees, the right of free access to said pipelines and every part thereof, at all times, for the purpose of exercising the rights herein granted, and the right to clear and to keep clear the above described real property, free from explosives, buildings, equipment, brush, combustible material and any and all other obstructions of any kind, and the right to trim or remove any tree or shrub which, in the opinion of Grantee, may endanger said pipelines, or any part thereof, or interfere with the exercise of the rights herein granted.

Grantor shall not excavate or change, nor permit the excavation or changing of the surface of the ground within said right of way strip without the previous written consent of Grantee.

Grantor reserves the right to use and enjoy said premises, provided that the Grantor shall not construct or maintain the whole or any part of any structure, on said "Right of Way Strip" or in any manner impair, endanger, or interfere with the present or prospective exercise of any of the rights herein granted.

Grant of Easement
County of Mono to
S.C.E.Co., a corp.
Serial No. 69564A
RP FILE: ACQ202064238

The terms, covenants and conditions of this Grant of Easement shall bind and inure to the benefit of the successors and assigns of Grantor and the successors and assigns of Grantee.

Executed this _____ day of _____, 20____.

COUNTY OF MONO, a political subdivision of the State of California

By:_____

Name:_____

Title: _____

By:_____

Name:_____

Title: _____

State of California _____)

County of _____)

On _____before me, _____, a Notary Public, personally appeared_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Grant of Easement
County of Mono to
S.C.E.Co., a corp.
Serial No. 69564A
RP FILE: ACQ202064238

State of California _____)

County of _____)

On _____before me, _____, a Notary Public, personally appeared_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

EXHIBIT "A"
LEGAL DESCRIPTION
SERIAL No. 69564A

THAT PORTION OF THE NORTH HALF, OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 2 NORTH, RANGE 25 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE UNINCORPORATED AREA OF THE COUNTY OF MONO, STATE OF CALIFORNIA, AS SHOWN ON RECORD OF SURVEY, FILED IN BOOK 5, PAGES 125 THROUGH 125C, INCLUSIVE, RECORDS OF SURVEY, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AS LOCATED WITHIN THE LANDS OF THE GRANTOR, LYING WITHIN A STRIP OF LAND 50.00 FEET IN WIDTH, THE CENTERLINE IS DESCRIBED AS FOLLOWS:

PARCEL 1 – UNDERGROUND PIPELINE EASEMENT
BEGINNING AT A POINT AT THE SOUTH QUARTER CORNER OF SAID SECTION 12, AS SHOWN ON SAID RECORD OF SURVEY, SAID POINT BEARS SOUTH 89°45'36" WEST, 2700.00 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 12; THENCE NORTH 35°22'44" WEST, 1480.39 FEET TO THE TRUE POINT OF BEGINNING;
THENCE NORTH 30°42'45" EAST, 283.50 FEET;
THENCE NORTH 34°11'59" EAST, 152.82 FEET;
THENCE NORTH 50°09'50" EAST, 103.94 FEET;
THENCE SOUTH 71°49'30" EAST, 99.08 FEET;
THENCE SOUTH 89°46'50" EAST, 117.17 FEET;
THENCE NORTH 46°44'14" EAST, 138.88 FEET;
THENCE NORTH 74°30'59" EAST, 74.32 FEET;
THENCE SOUTH 66°41'02" EAST, 184.61 FEET TO A POINT, SAID POINT BEARS NORTH 58°36'44" WEST, 3154.64 FEET FROM SAID SOUTHEAST CORNER OF SECTION 12, SAID POINT ALSO BEING THE TERMINUS OF THE HEREIN DESCRIBED CENTERLINE.

CONTAINING 48,549 SQUARE FEET OR 1.115 ACRES, MORE OR LESS.

NOTE: DISTANCES SHOWN ARE GRID DISTANCES BASED ON THE CALIFORNIA COORDINATE SYSTEM, ZONE 3, NORTH AMERICAN DATUM OF 1983. TO OBTAIN GROUND DISTANCE, DIVIDE THE GRID DISTANCE BY A COMBINED SCALE FACTOR OF 0.999603809.

THE SIDELINES OF SAID STRIP SHALL BE LENGHTHENED OR SHORTENED SO AS TO TERMINATE SOUTHWESTERLY IN THE SOUTH LINE AND SOUTHEASTERLY IN THE EAST LINE OF SAID LANDS OF THE GRANTOR.

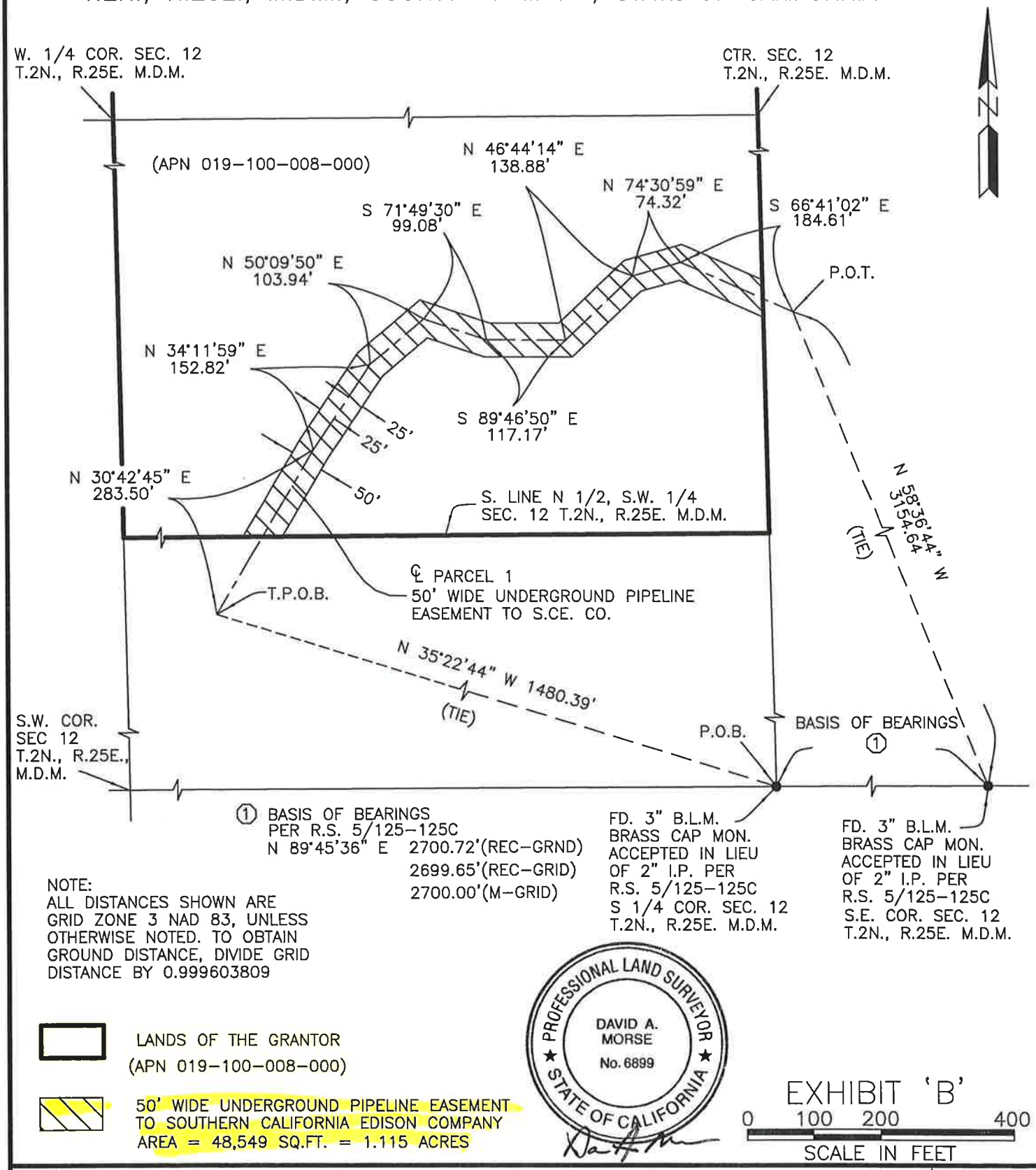
ALL FOUND MONUMENT DESCRIPTIONS, BASIS OF BEARINGS, COURSES, ETC. ARE AS SHOWN ON EXHIBIT "B" ATTACHED HEREWITH AND MADE A PART HEREOF.

PREPARED BY ME OR UNDER MY DIRECTION

DATE 10.2.12

DAVID A. MORSE, P.L.S. No. 6899
SOUTHERN CALIFORNIA EDISON COMPANY

A PORTION OF THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 12, T.2N., R.25E., M.D.M., COUNTY OF MONO, STATE OF CALIFORNIA



NOTE:
ALL DISTANCES SHOWN ARE GRID ZONE 3 NAD 83, UNLESS OTHERWISE NOTED. TO OBTAIN GROUND DISTANCE, DIVIDE GRID DISTANCE BY 0.999603809

LANDS OF THE GRANTOR
(APN 019-100-008-000)

50' WIDE UNDERGROUND PIPELINE EASEMENT TO SOUTHERN CALIFORNIA EDISON COMPANY
AREA = 48,549 SQ.FT. = 1.115 ACRES

PROFESSIONAL LAND SURVEYOR
DAVID A. MORSE
No. 6899
STATE OF CALIFORNIA

EXHIBIT 'B'

0 100 200 400
SCALE IN FEET

PROJECT NAME: LUNDY POWERHOUSE				M.S.: 173-067
W.O. NO.: 800929518	NOT. NO.: 202084794	CITY: UNINCORP	COUNTY: MONO	STATE: CA
SURVEYED BY: BUNTE		SCE F.B. REF.: 10762009	DATE: 8-13-12	SOUTHERN CALIFORNIA EDISON An EDISON INTERNATIONAL Company
DRAWN BY: R.CORDOVA		MAP REF.: RS 5-125-125C		
CHECKED BY: D.MORSE	LAND INFO.: L. CHAVEZ	SERIAL NO.: 69564A	FILE NAME: 2012-202084794	.DWG

10/2/2012 8:28 AM, T:\2012-202084794 LUNDY POWERHOUSE\2012-202084794.DWG

Pre-Application Briefing Materials
Lundy Return Conveyance System
Lundy Hydroelectric Project
(FERC No. 1390)

Prepared for:

Southern California Edison

October 2011

Pre-Application Briefing Materials
Lundy Return Conveyance System
Lundy Hydroelectric Project
(FERC No. 1390)

Prepared for:

Southern California Edison
San Dimas, California

Prepared by:

AECOM
2020 L Street, Suite 400
Sacramento, CA 95811

Contact:

Roy Leidy
916/414-5800

October 2011

60214765
10.17.2011

TABLE OF CONTENTS

Lundy Hydroelectric Project Background Description

Southern California Edison (SCE) operates the Lundy Hydroelectric Project located in Mono County, California. The project is located within the Mono Lake Basin on the eastern flank of the Sierra Nevada approximately 14 miles south of Bridgeport, and 6.6 miles north of Lee Vining (Exhibit 1: Regional Location Map). This 3 megawatt (MW) facility was placed into operation in 1911 and is currently operated under a 30-year license issued on 3 March 1999 by the Federal Energy Regulatory Commission (FERC; Project No. 1390), pursuant to the Federal Power Act of 1935 (16 U.S.C. 791 et seq.).

Current Operation of the Lundy Hydroelectric Project

The Lundy Hydroelectric Project (Exhibit 2: Lundy Hydroelectric Facilities Map) consists of:

(1) a 33-foot-high and 690-foot-long earth and rock-fill Lundy Dam, impounding Mill Creek to form the 132-acre Lundy Lake;

(2) a 270-foot-long concrete intake structure with a maximum capacity of about 70 cubic feet per second (cfs);

(3) a 12,000-foot-long, 48-inch-diameter pipeline with a maximum of capacity of 70 cfs;

(4) a 3,000-foot-long varying-diameter penstock;

(5) the Lundy Powerhouse with two generating units, each with a rated capacity of 1.5 MW;

(6) a tailrace discharging flows into Wilson Creek and bypassing approximately 7 miles of Mill Creek;

(7) a water return ditch known as the Mill Creek Return Ditch (Return Ditch) extending from the powerhouse tailrace to Mill Creek;

(8) a 15-foot-long transmission line; and

(9) appurtenant facilities.

Operationally, after use for power generation, the water is discharged into the powerhouse tailrace (approximately 1,570 feet in length). The tailrace immediately downstream of the powerhouse is lined with concrete which transitions into an artificial earthen channel before reaching a splitter box (a control gate structure) at the confluence with the Return Ditch and the natural origin of Wilson Creek. At this location water can be diverted to the Return Ditch which transports water approximately 6,130 feet back to Mill Creek downstream of Lundy Dam (Exhibit 1: Regional Location Map). The Return Ditch was historically used to meet the needs of water right holders on Mill Creek[1] located downstream of the confluence of the Return Ditch and Mill Creek. The Return Ditch capacity is currently about 12 cfs, and is thought to have

[1] Mill Creek water rights were adjudicated by the Mono County Superior Court in 1915.

historically held up to a maximum of 16 cfs. Historically, all flows up to the capacity of the Lundy Powerhouse that did not go into the Return Ditch were discharged to Wilson Creek.

Lundy Hydroelectric Project Settlement Agreement of 2005

On 1 December 1981, SCE filed with the FERC an application for a new license for the Lundy Hydroelectric Project. Subsequently, the FERC issued a new license on 3 March 1999. Several parties challenged the issuance of the new license on various grounds, so SCE and these parties initiated settlement negotiations in 2001. Ultimately, SCE and most, but not all, of the negotiating parties reach a Settlement Agreement[2] in January 2005.

The purpose of the Settlement Agreement was to resolve the issues raised by the parties related to issuance of the new license by the FERC in 1999, particularly the minimum flow schedule for Mill Creek and issues related to parties holding Mill Creek water rights that were used in the Wilson Creek watershed. Of relevance to the currently proposed action, SCE agreed to construct a new Mill Creek Return Conveyance Facility designed to convey water from the Lundy Powerhouse back to Mill Creek which would correct for the capacity limitations of the historical Return Ditch. Ultimately, the settling parties agreed that a new Mill Creek Return Conveyance Facility, currently called the "Return Conveyance System" (RCS) would be designed to a maximum capacity of 52 cfs. Design details were left to SCE who determined that the RCS would consist of a concrete headwork and return pipeline made of high density polyethylene (HDPE) pipe, to be buried almost entirely within the existing alignment of the powerhouse tailrace and the historical Return Ditch.

Under the Settlement Agreement SCE would prepare an annual *Water Management Plan*, following consultation with the water rights holders, for the allocation of tailrace flows on a year-by-year basis.

Construction of the RCS (i.e., the proposed project) is the action requiring regulatory approval.

RCS Project Description

On 18 August 2010, SCE filed with the FERC an application for an amendment of the project license to construct the RCS pursuant to the Settlement Agreement. On 17 March 2011, the FERC granted SCE the requested license amendment to construct the RCS, but deferred on all issues related to water rights, including the preparation of the annual *Water Management Plan*. All water rights and water transfer issues were determined by the FERC to be outside of its jurisdiction. The FERC gave SCE four years to comply with the Order Amending License.

RCS Project Location

The RCS project site is located within Sections 12 and 13 of U.S. Geological Survey (USGS) 7.5-minute Lundy Quadrangle, Township 2 North, Range 25 East. The RCS project site extends from the Lundy Hydroelectric Powerhouse along the alignment of the tailrace and Mill Creek

[2] *Lundy Hydroelectric Project Settlement Agreement* (January 2005) by and among Southern California Edison Company, U.S. Department of Agriculture Forest Service, U.S. Department of the Interior (Bureau of Land Management), California Department of Fish and Game, Mono Lake Committee, California Trout, and American Rivers.

Return Ditch to Mill Creek. The project site is approximately 7,000 feet above mean sea level, and is located on lands owned by SCE, Mono County, the Bureau of Land Management (BLM), and the U.S. Forest Service (USFS) (Exhibit 3: RCS Location and Land Ownership).

Existing Conditions within the RCS Project Site

The RCS project site is dominated by sagebrush scrub habitat, which composes approximately 90 acres of the 100-acre project site (Exhibit 4: RCS Existing Conditions View). A small Carex (sedge) meadow is located along the active portion of the tailrace, upstream of the Wilson Creek splitter box. Potential waters of the United States within the project site include Mill Creek, Wilson Creek, Lundy Powerhouse tailrace, and the DeChambeau-Adair Ditch. Riparian habitat is present along Mill Creek, Wilson Creek, and portions of the tailrace (Exhibit 4: RCS Existing Conditions View).

RCS Project Description

As stated previously, the RCS will consist of a concrete headwork and return pipeline made of HDPE pipe, to be buried almost entirely within the existing alignment of the existing water delivery system. The new concrete headwork will be constructed at the tailrace of the Lundy Powerhouse adjacent to the powerhouse building. The return pipeline will exit the lower portion of the headwork and run parallel to the existing tailrace until it reaches the upstream end of the existing Mill Creek Return Ditch at the existing splitter box. From the splitter box to the outlet at Mill Creek, it will be buried within the existing alignment of the Return Ditch. Once reaching Mill Creek the RCS will discharge to Mill Creek through an energy dissipation and outfall structure. The total pipeline alignment is approximately 7,700-feet long. The construction footprint for the proposed project is about 50 feet in width for the length of the new RCS. This provides access for vehicles, pipe staging, and temporary spoils storage from the trenching operations.

RCS Operation

As stated previously, the amount of water to be placed into the RCS is based on water that is "surplus" to water rights held on Wilson Creek, and is to be determined annually based on a process defined in the Settlement Agreement. In this process SCE will consult with the water right holders, assess existing water supply conditions, and allocate water based on right seniority and total available supply. While oversimplified, the outcome will be an annual schedule of water deliveries. SCE will put into the RCS any flows recommend, up to the capacity of the pipeline, that are consistent with existing water rights.

Environmental Review

FERC National Environmental Policy Act Compliance

In May 2006, the FERC issued a National Environmental Policy Act (NEPA) Environmental Assessment (EA) evaluating the Settlement Agreement of 2005 (FERC, Southern California Edison, Project No. 1390-040-CA, Notice of Availability of Environmental Assessment, May 19, 2006). FERC considered SCE's settlement proposal to expand or replace the historical Mill Creek Return Ditch, including installation of a buried pipeline. The FERC EA found that

construction of the pipeline and conveyance facility would not affect geology, soils, or recreation. The EA found that soil disturbance from construction activities could increase stream turbidity and sedimentation in either Wilson or Mill creeks, which could affect aquatic resources such as spawning salmonids (non-native rainbow and brown trout). However, implementation of best management practices for in- or near-water work would minimize any erosion-related effects. The EA recommended that SCE be required to prepare an erosion control plan. The FERC-granted license amendment issued 17 March 2011 requires that SCE prepare and submit to the FERC a *Soil Erosion and Sediment Control Plan* prior to any ground-disturbing activities.

The EA also found that construction of the pipeline could result in a minor loss of wildlife habitat and minor disturbances to local wildlife populations. Revegetation of any disturbed areas would benefit local wildlife populations and would reduce potential erosion. The EA recommended that SCE prepare a plan for revegetating disturbed areas. The FERC-granted license amendment issued in 17 March 2011 also requires that SCE prepare a *Revegetation Plan*, including: 1) a description of the plant species and plant densities to be used; 2) a monitoring program to evaluate the effectiveness of the planting; 3) a description of procedures to be followed if monitoring reveals that the revegetation is not successful; and 4) an implementation schedule that provides for revegetation within the disturbed area as soon as practicable after the beginning of land-disturbing activities.

The EA found no historic properties in the area of the RCS project, but, nevertheless, recommended that SCE to prepare a cultural resources management plan. SCE will comply with all requirements of section 106 of the National Historic Preservation Act (NHPA).

In addition to direct construction-related affects discussed previously, the FERC also addressed the effects of operation of the RCS once constructed, including the withdrawal of water from Wilson Creek and it's addition to Mill Creek. FERC evaluated the effects of three different operational scenarios on the following resource areas: geology and soils, surface water and fishery resources, terrestrial resources, threatened and endangered species, aesthetic resources, cultural resources, and recreation and other land uses. In summary, the FERC concluded that approval of the license amendment to add the RCS to the Lundy Hydroelectric Project license was consistent with project purposes.

Agency California Environmental Quality Act

To the extent applicable, the 2006 FERC EA may be used to comply with applicable sections of California Environmental Quality Act (CEQA) documentation.

Permitting and Approvals

The following federal, state, and local permits and/or approvals are believed to be necessary in order to implement the RCS project (see also Table 1):

Federal Jurisdiction

- Clean Water Act (CWA) Section 404 Permit
  - Nationwide Permit 12 (Utility Lines) or 17 (Hydropower Projects)

- Coordination and Consultation with the USFS and BLM
  - No permits required

Shared State and Federal Jurisdiction

- CWA Section 401
  - Water Quality Certification

- CWA Section 402
  - National Pollution Discharge Elimination System (NPDES) Permit

State Jurisdiction

- California Fish and Game Code Section 1600
  - Lake and Streambed Alteration Agreement (SAA)

- State Office of Historic Preservation
  - National Historic Preservation Act Section 106 Letter of Concurrence

Local Jurisdiction

- Mono County Grading Permit

- Mono County Encroachment Permit

Table 1. Summary of Regulatory Permits Required for the RCS Project.

Permit	Responsible Agency	Comments
CWA section 404	U.S. Army Corps of Engineers	Expected to qualify for NWPs[1] 12 or 17. NEPA review completed by FERC.
CWA section 401	State Water Resources Control Board (SWRCB)	CEQA review expected.
CWA section 402 NPDES	SWRCB/Lahontan Regional Board	CEQA review expected.
California Fish and Game Code section 1602 SAA	CDFG	CEQA review expected.
State Office of Historic Preservation NHPA section 106 Letter of Concurrence	State Office of Historic Preservation	NEPA completed by FERC.
Mono County Grading Permit	Department of Public Works	CEQA review expected.
Mono County Encroachment Permit	Department of Public Works	CEQA review expected.
Note: 1. NWPs=Nationwide Permits		

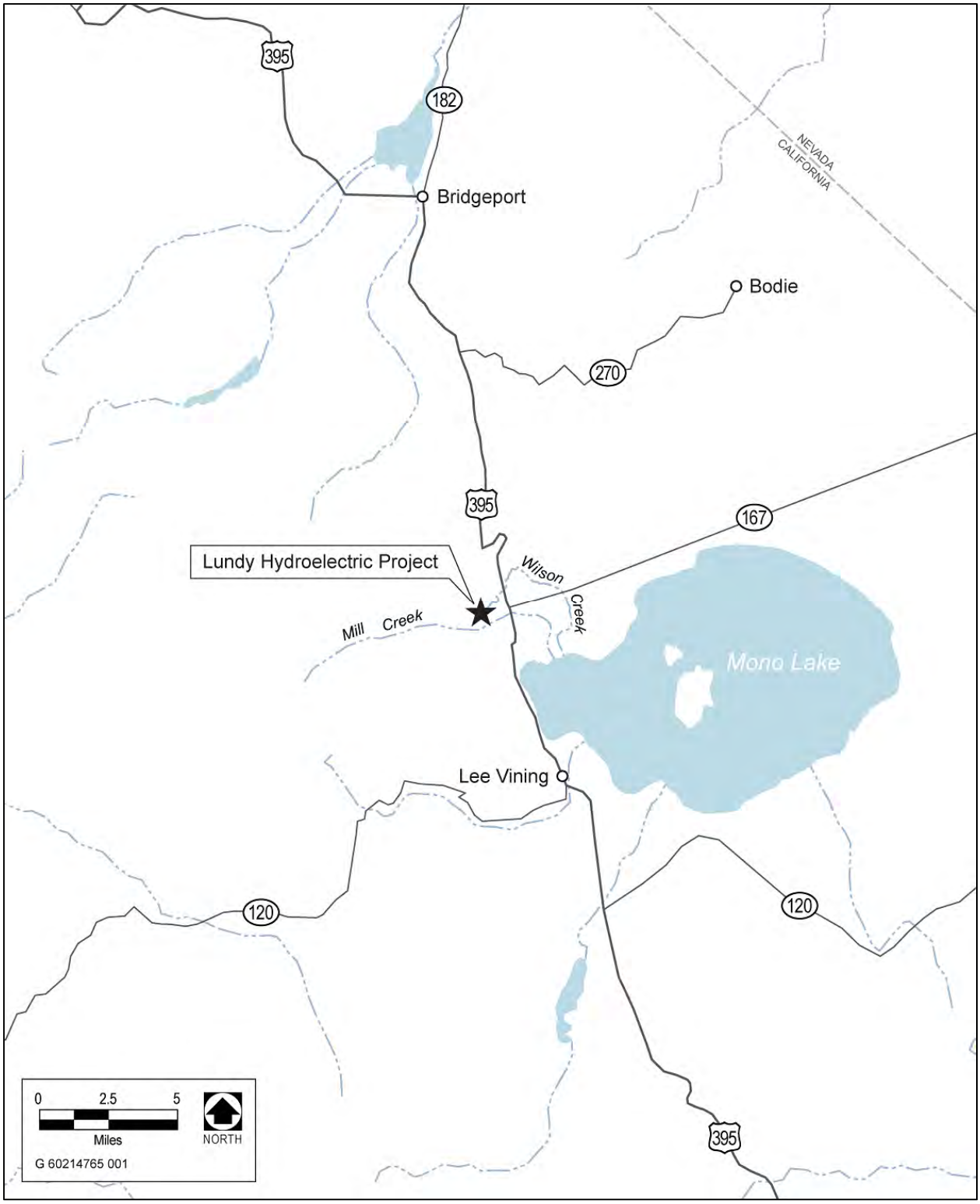


Exhibit 1 **Regional Location Map**

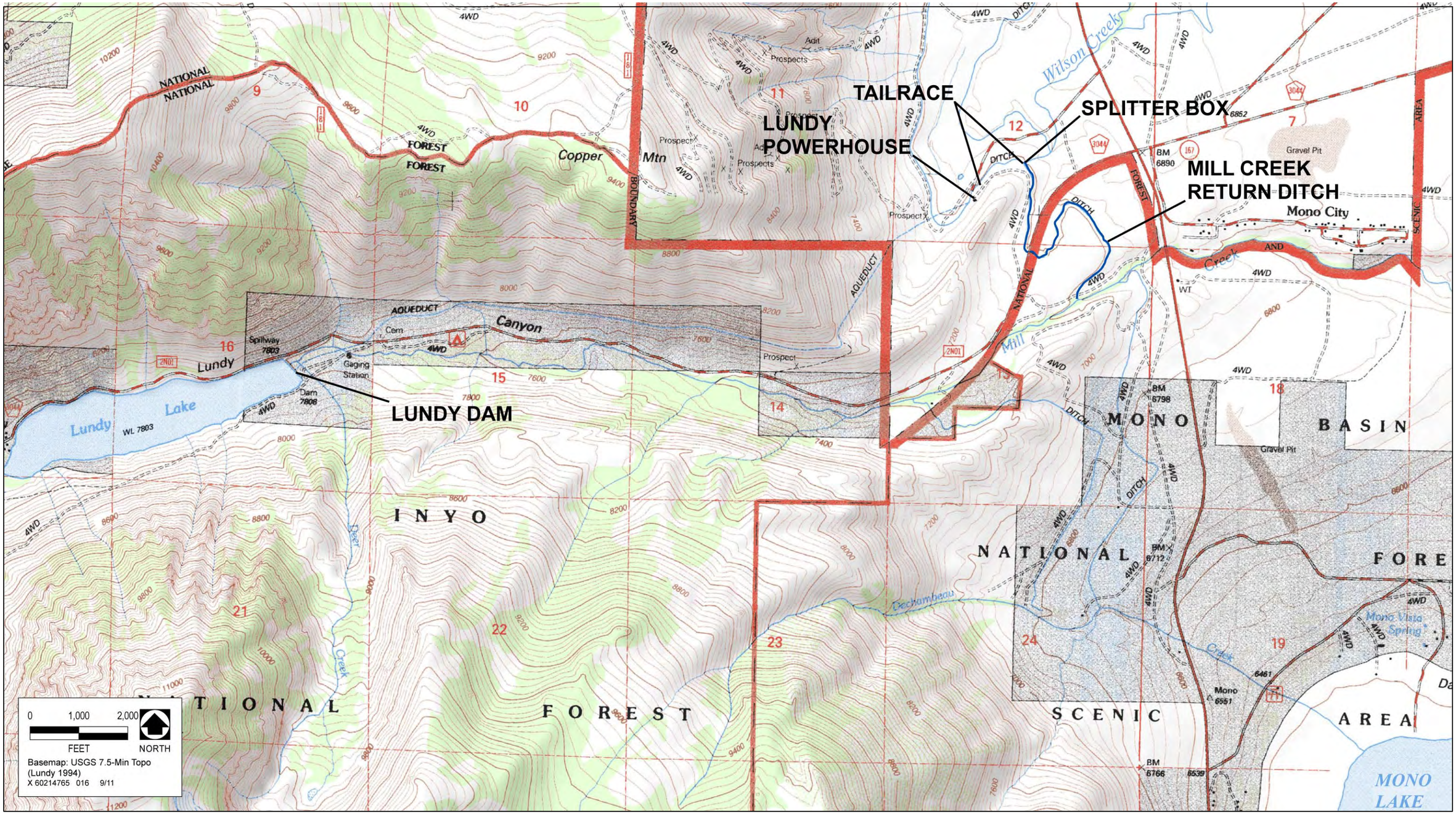


Exhibit 2 **Lundy Hydroelectric Project Facilities Map**

Exhibit 3

RCS Location and Land Ownership

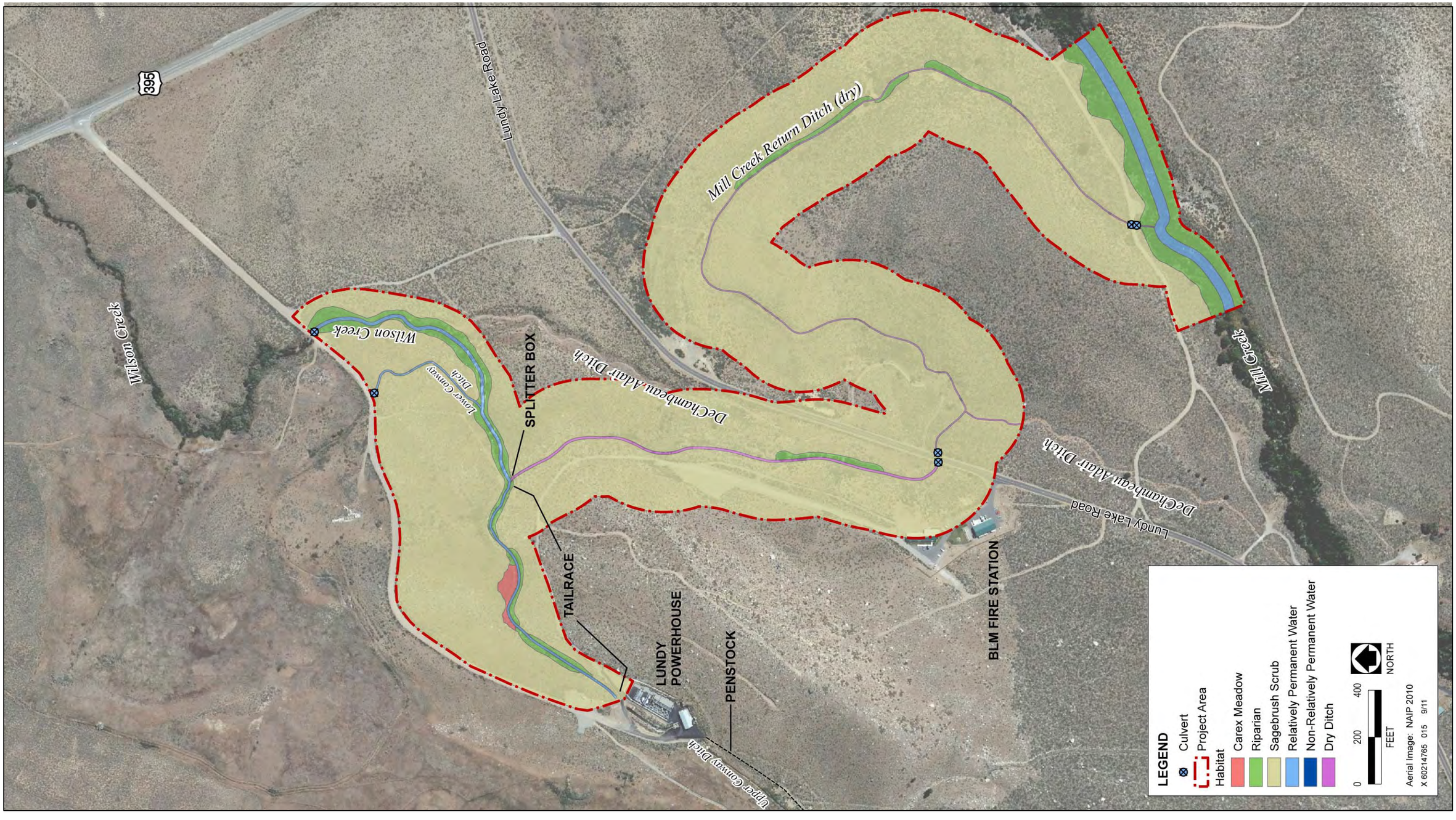


Exhibit 4 **RCS Existing Conditions View**

BOARD OF SUPERVISORS
COUNTY OF MONO

P.O. BOX 715, BRIDGEPORT, CALIFORNIA 93517
(760) 932-5538 • FAX (760) 932-5531

Lynda Roberts
Clerk of the Board
lroberts@mono.ca.gov

Linda Romero
Assistant Clerk of the Board
lromero@mono.ca.gov

October 19, 2010

Ms. Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

RE: PROTEST and COMMENTS re Application for Non-Capacity License Amendment to Install Mill Creek Return Pipeline Improvement
Applicant: Southern California Edison (SCE) Company
Project No.: 1390-063

Dear Ms. Bose, Commissioners, and Staff:

The County of Mono, a political subdivision of the State of California, hereby submits this protest and comments regarding SCE's application for an amendment of its license for the Lundy Hydroelectric Project to allow construction of a new return water conveyance facility involving a 52 cfs pipeline. Such a return conveyance facility has long been of concern to the County and a subject of public interest and controversy, as you may recall from prior proceedings. So we appreciate the Commission's decision to solicit comments, protests, and motions to intervene with respect to this new proceeding.

As the Commission may know, the County owns real property known as the Conway Ranch and certain adjudicated water rights associated with that property, which have historically been provided through the Lundy Project's

tailrace discharge into Wilson Creek.[1] The County exercises its water rights for fish-rearing, irrigation, and other reasonable and beneficial uses. Since shortly after acquiring the Conway Ranch property, the County has been concerned about potential impacts of various proposals associated with the relicensing of SCE's Lundy hydroelectric project on the County's water rights and the environment. We first communicated such concerns to the Commission in October of 1999 and subsequently intervened in the relicensing proceedings and provided additional comments in 2005 and 2006.

The Commission has previously taken the County's concerns seriously, and its decisions have reflected good-faith, meaningful efforts to address them, which we appreciate. We hope the Commission will do likewise in this instance.

It is our impression that SCE's application for a license amendment is technically a new and distinct proceeding and that it may be handled by different Commission staff than prior proceedings. Thus, we do not wish to erroneously assume that the Commission or its staff are already aware of our prior filings and letters or that they are necessarily any part of the record of this proceeding. Accordingly, this letter reiterates relevant portions of our prior comments, which we believe are still as valid today as when we first made them.

1. <u>The Proposed License Amendment Sets the Stage for Future Battles Over Water.</u>

SCE claims that its license amendment is being proposed in an attempt to satisfy the 2004 Settlement Agreement it entered into with certain parties. Under the terms of that Agreement, SCE could satisfy any obligation it may have by

[1]Another portion of the Conway Ranch property and its water rights is owned by the Department of the Interior, Bureau of Land Management (BLM).

proposing to construct a 40 cfs lined ditch. Instead, it has proposed to build a 52 cfs pipeline, which the Settlement Agreement permits but doesn't require. While such a conveyance is presumably desired by the settling parties, it is of great concern to the County.

Among other things, the County is concerned that a pipeline – as opposed to a lined ditch – will likely set the stage for a future battle over winter water in which the County's water rights are caught in legal or political tug of war. SCE doesn't appear to dispute the County's concern, but washes its hands of the matter on the basis that "the origins of that dispute pre-date the Settlement Agreement." (Application, Responses to Comments, Attachment 2, at p. 5.) In addition, by virtue of its capacity to divert large quantities of tailrace flows to Mill Creek on a year-round basis – including winter months, when flows are minimal – a 52-cfs pipeline has a greater potential to cause significant and unknown impacts to the environment than a 40 cfs ditch.

In other words, SCE knows full well that a 40 cfs lined ditch would satisfy the Settlement Agreement without causing potential problems for the County's use and enjoyment of its water rights, and would presumably result in fewer environmental impacts. But SCE doesn't care. It insists on installing a 52 cfs pipeline – the worst possible option from the County's standpoint.

SCE claims that it chose not to propose a lined ditch "based on concerns of engineering practicality and cost." (Id.) The County finds such a contention hard to believe. If SCE cared about costs, it would surely be proposing a 40 cfs conveyance, as permitted by the Settlement Agreement. Instead, SCE is voluntarily opting for a larger conveyance – the cost of which it intends to pass

entirely onto its ratepayers. (See Application, Exhibit D, Section (6), entited "Sources of Financing and Revenues.")

2. The Proposed License Amendment is Inconsistent with the 2007 FERC Order

The proposed license amendment is inconsistent with the FERC Order dated November 15, 2007 (Amending License and Dismissing Requests For Rehearing), inasmuch as it seeks to make the construction of an improved return conveyance a license requirement. The directive word "shall" is used throughout the proposed license amendment (as opposed to the permissive word "may"). In that 2007 Order, the Commission found no basis for it to "require" that SCE construct an improved return conveyance whose ostensible purpose was to allow SCE to accomplish certain objectives related to the allocation of powerhouse flows to Wilson and Mill Creek for non-project uses:

> "While, under section 27 of the FPA, the Commission may not take actions that interfere with state water rights, it is quite another thing for the Commission to compel a licensee to adhere to privately-reached agreements for supplying water to satisfy those rights. . . . .
>
> Again, the allocation of water to satisfy water rights is not a project purpose, *so there is no reason for us to require the licensee to file a plan for reconstructing the tailrace diversion structure and water conveyance facility, as the settlement signatories request."*

(FERC Order at ¶¶ 84 and 88, emphasis added.)

Although the Commission declined to require SCE to construct an improved conveyance facility, it indicated that nothing would prevent SCE from seeking a license amendment wherein the Commission might "approve" (not order) SCE's proposed construction of such a facility "to improve its ability to divert water for non-project uses." (FERC Order at ¶ 90.) SCE tacitly concedes this point in its Application, stating that "the Commission made clear that the licensee was free to file a further license amendment application for *permission* to construct the return water conveyance facility . . . ." (Application at p.3, emphasis added.)

The County pointed out this linguistic inconsistency to SCE in its consultation comment letter. Yet SCE left the proposed language of the license amendment unchanged and responded that its choice of mandatory as opposed to permissive wording "simply tracks the wording of the Settlement Agreement which SCE is attempting to honor . . . ." (Application, "Responses to Comments," Attachment 2, at p. 5.) This proffered explanation is belied by SCE's application, which makes it clear that SCE intends to pass the full cost of this expensive return conveyance onto its ratepayers through its 2012 General Rate Case, which it has already filed with the California Public Utility Commission. (See Application, Exhibit D, Section (6), entited "Sources of Financing and Revenues.")

The close timing of that rate-case filing with this license-amendment filing is surely not coincidental, and there can be no serious doubt that SCE stands a better chance of recovering its costs of complying with a license "requirement" as opposed to a mere grant of permission for it to install such a non-capacity return

conveyance.[2] SCE's denial of any financial motivation for proposing mandatory license language is unpersuasive and disingenuous.

Regardless of SCE's reasons for proposing mandatory wording, we hope and assume that in the event the Commission ultimately grants any form of the requested license amendment (after properly analyzing environmental impacts), it will use permissive language consistent with its prior 2007 Order. At a minimum, the word "shall" should be changed to "may" in the first paragraph of proposed Article 411.

3. The Proposed License Amendment Necessitates Preparation of an Environmental Impact Statement.

The County has consistently maintained that construction of an improved return conveyance, particularly one capable of diverting up to 52 cfs of tailrace discharge to Mill Creek at the expense of Wilson Creek, may significantly affect "the quality of the human environment," thus triggering the need for an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA). (See 42 U.S.C. § 4332 and 40 C.F.R. § 1502.3.) The County expects the Commission to fulfill its legal obligations under NEPA by preparing an EIS that provides the Commission and the public with a full and fair discussion of all potentially significant environmental impacts of the proposed license amendment on the quality of the human environment and identifies reasonable alternatives that would avoid or mitigate any adverse effects. (*See* 40 C.F.R. § 1502.1 et seq.)

2 SCE already attempted, unsuccessfully, to recover such costs through its previous CPUC rate case. The CPUC rightly found the request premature, among other things.

The potentially significant environmental effects that the Commission must study include potential impacts to Wilson Creek and its riparian habitat from the substantially reduced flows (resulting from transferring up to 52 cfs of water to Mill Creek through the enhanced Return Water Conveyance Facility). They also include potential effects of such reduced flows on the recharge of domestic wells in the vicinity, including a well owned by the Lundy Mutual Water Company, which serves a subdivision of homes known as Mono City, and also a well that serves a group of homes in the Conway Ranch subdivision. NEPA also requires the Commission to identify reasonable alternatives and mitigation measures that could mitigate any adverse impacts. (40 C.F.R. §§ 1502.14 and 1502.16.) Depending on the nature of any environmental impacts, the Commission may decide not to amend the license in the manner proposed or to couple such an amendment with mitigation measures that may alleviate those impacts.

In addition, the Commission must consider and study the environmental effects of an enhanced water return conveyance facility on Mill Creek, which would be receiving substantial additional flows of water diverted away from Wilson Creek. The parties to the 2004 Settlement Agreement obviously believe that such additional flows will have significant environmental effects on Mill Creek – albeit of a beneficial nature – or they would not seek such dramatic enhancements in the water return conveyance facility. Whether such effects would in fact be beneficial is questionable and controversial. But even if assumed beneficial for the sake of argument, they are clearly "significant" and must for that reason alone be studied under NEPA: "[Significant effects] may be both beneficial and adverse. A significant effect may exist even if the Federal

agency believes that on balance the effect will be beneficial." (40 C.F.R. § 1508.27(b)(1).)

As noted, the potential environmental effects of increasing flows in Mill Creek by reducing them in Wilson Creek – whether beneficial or adverse – is controversial in Mono County. Such controversy was evident at a crowded public meeting held by the settling parties on August 30, 2004, where they attempted to explain the settlement agreement and respond to questions by the public. It is also evident by the numerous comments submitted to the Commission during an extended comment period as part of the relicensing proceeding. The existence of such controversy is yet another reason why potential effects of the requested license amendment must be considered "significant" for purposes of NEPA. (*See* 40 C.F.R. § 1508.27(b)(4), regarding consideration of the "degree to which the possible effects on the human environment are likely to be highly controversial.")

The Environmental Assessment (EA) prepared in 2006 by the FERC staff, while commendable in many respects, fell short of NEPA's requirements and did not obviate the Commission's legal obligation to prepare an EIS. Ultimately, by not requiring the construction of an enhanced return conveyance, the Commission essentially sidestepped having to prepare an EIS to analyze the impacts of such a conveyance. This time, the Commission will have no choice but to confront those avoided issues and analyze them properly under NEPA through an EIS.

The National Environmental Policy Act (NEPA) requires the preparation of an EIS whenever an EA establishes that the agency's action *may* have a

significant effect upon the environment. (*See Nat'l Parks & Conservation Ass'n v. Babbit et al.*, 241 F.3d 722, 730 (9th Cir. 2000); and *Sierra Club v. United States Forest Service et al.*, 843 F.2d 1190, 1193 (9th Cir. 1988).) Whether there may be a significant effect on the environment requires consideration of two broad factors: context and intensity. (*Nat'l Parks*, 241 F.2d at 731; and 40 C.F.R. § 1508.27.) The context here is the geographic region of North Mono Basin; its natural setting; its non-human inhabitants such as trout, birds, and deer; and affected interests such as the County and residents of the area. (*Id.*) Intensity in this case would include consideration of the following standards enumerated in section 1508.27:

- impacts that may be both beneficial and adverse (a significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial);
- the degree to which the proposed action affects public health or safety [e.g., impacts to water wells];
- unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas;
- the degree to which the effects on the quality of the human environment are likely to be highly controversial; and
- the degree to which possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(*See* 40 C.F.R. § 1508.27(b).)

Any of these factors may be sufficient to require preparation of an EIS in appropriate circumstances. *(Nat'l Parks*, 241 F.3d at 731.)

The unique characteristics of the geographic area are undisputed. The North Mono Basin and project area are in a proximity of (or include): Mono Lake; a national forest scenic area; public parks; creeks; deer migration corridors; farmlands such as Conway Ranch; historic resources; and wetlands such as DeChambeau ponds.

The existence of significant controversy regarding effects of the proposed action on the environment should also be undisputed. The 2004 Settlement Agreement was, by its nature, an attempt to resolve certain controversies. And yet the settlement did not reflect a consensus of all parties to the underlying settlement discussions. The lack of consensus and continuing controversy was demonstrated by the subsequent outpouring of public comments in support and opposition to the improved conveyance facility, including many conflicting scientific opinions. Substantial questions were raised regarding the proposed conveyance facility's effects on the human environment. The comments also demonstrate the existence of substantial disputes regarding the effect of the enhanced return conveyance. Such disputes cast serious doubt upon the reasonableness of staff's recommended FONSI. All such factors are evidence of "controversy" under NEPA. (*See Nat'l Parks,* 241 F.3d at 736; *see also Blue Mountains Biodiversity Project et al. v. Blackwood et al.*, 161 F.3d 1208, 1215 (9th Cir. 1998).)

The existence of various environmental impacts are revealed in almost every section of the EA. Repeatedly, the EA concludes that the shifting of large quantities of water from Wilson Creek to Mill Creek through an enhanced return conveyance facility would cause both adverse and beneficial impacts. (*See, e.g.,* EA at pp. 36-41, showing potentially severe degradations in brown trout habitat in Wilson Creek with concomitant improved WUA for brown trout in lower Mill Creek; and EA at p. 62, finding that a reduction in shorebird habitat at the mouth of Wilson Creek would be offset by an increase in similar habitat at Mill Creek.) It is because such impacts are revealed that staff recommended mitigation measures such as a minimum flow for Wilson Creek and various monitoring programs.

Also apparent throughout the EA is a high degree of uncertainty regarding environmental effects, primarily due to a lack of data. For example, the EA finds data lacking in a number of areas related to impacts on the recharge of groundwater aquifers:

- p. 43: "...available data are insufficient;"
- p. 45: "it is not known if water from these [Conway Ranch] wells is used for non-domestic purposes;" "The effect of droughts on the capacity of the wells is uncertain;" and "The relative decrease of recharge . . . cannot be estimated as channel data of the wetted area at low flows do not exist;"
- p. 46: "The extent of the impact to water supply at Conway Ranch cannot be quantified . . . ;"

- p. 47: "it is possible (but not known) that water infiltrating into the ground along the current Mill Creek return ditch contributes to the recharge of the confined aquifer for the Lundy Mutual well . . . ;" and "Not known is the impact of the increase flow in Mill Creek;"
- p. 48: "Hydrologic data are not available, however, to assess the recharge potential to the BLM well."

Without such data, the EA's analysis and conclusions are little more than educated guesses. Further study and data collection are necessary. "Preparation of an EIS is mandated where uncertainty may be resolved by further collection of data . . . ." (*Nat'l Parks,* 241 F.3d at 732.) Simply "canvassing the existing knowledge base" is not enough. (*Id.* at 725.) The lack of sufficient data to determine effects of the proposed action on domestic wells is particularly significant because it involves the "degree to which the proposed action affects public health or safety." (14 C.F.R. § 1508.27(b).)

Similarly, with respect to Terrestrial Resources, the EA states that "pools and marsh habitat at the mouth of Wilson Creek provide important shorebird habitat." (EA at p. 52.) It later finds that "[i]t is unknown, however, whether reduced flows in lower Wilson Creek would affect spring flow and thus the extent of the marsh habitat." (EA at p. 62.) If the impacts to such "important" shorebird habitat are indeed "unknown," then further study through preparation of an EIS is clearly warranted.

In general, the EA's analyses of Terrestrial Resources and Aesthetic Resources suffer from the lack of any apparent independent, first-hand

observations or new data collection by Commission staff. Staff's attempt to describe the habitat of Wilson Creek and Mill Creek appears to be based solely on review of the existing literature and comment letters. But as noted above, much of that knowledge base is controversial and contradictory. Staff's attempts to reconcile those contradictions in the EA are unavailing. For example, although the EA at one point states that "pools and marsh habitat at the mouth of Wilson Creek provide important shorebird habitat" (as noted above), it later contradicts itself by describing the same area as providing only "limited habitat for waterfowl and shorebirds." (EA at pp. 52 and 62.)

For all of the foregoing reasons, the context and intensity of the proposed return conveyance indicate that it may have significant and unknown impacts on the environment. To offset such impacts, staff had previously recommended certain mitigation and monitoring measures as conditions of approval. In its Application, SCE appears to assume that such measures would be imposed as conditions of its requested license amendment. While such measures may be well-intended, and are not conceptually objectionable to the County, they cannot support a FONSI and avoid the preparation of an EIS.

For example, staff had previously recommended the imposition of a 5 cfs minimum flow for Wilson Creek. The County has no objection to the concept of a minimum flow for Wilson Creek, provided it is not derived from and would not impact the County's use of its water rights. That being said, however, the efficacy of a 5 cfs minimum flow as a mitigation measure is speculative. There has been no detailed study or modeling of its anticipated environmental effects,

nor were other possible minimum flows evaluated and ranked. The EA noted that a minimum flow of 15 cfs for Wilson Creek was previously found necessary to maintain aesthetics for the Paoha Project. (EA at p. 66.) And yet it is inexplicably not reconsidered here, even though the EA noted that such a measure would maintain "the visual resources of both areas." (EA at p. 67.) Staff also did not identify environmental standards by which success of the mitigation measure would be determined, nor any steps to achieve compliance should the measure fail. In summary, there was a lack of sufficient data and analysis to support staff's conclusion that the measure would be adequate.

Similarly, a high degree of uncertainty exists regarding impacts on groundwater recharge and domestic wells due to a lack of sufficient existing data, which is particularly significant given its effect on public health and safety. (40 C.F.R. § 1508.27(b).) Commission staff previously proposed to address such uncertainty by requiring groundwater monitoring. But that is precisely the information and understanding that is required before a decision that may have a significant adverse impact on the environment is made and why an EIS must be prepared in this case. Before one brings about a potentially significant and irreversible change to the environment, an EIS must be prepared that sufficiently explores the intensity of the environmental effects it acknowledges. An agency may not act first and study later. *(Nat'l Parks,* 241 F.3d at 733.)

For example, the EA finds that "it is possible (but not known) that water infiltrating into the ground along the current Mill Creek return ditch contributes to the recharge of the confined aquifer for the Lundy Mutual well . . . ." (EA at p. 47.) Yet

the proposed return conveyance would allow that ditch to be replaced by a pipe and thereby "eliminate infiltration into the ground" and "any potential recharge contributions . . . to the aquifer of the Lundy Mutual well . . . ." (*Id.*) Performing groundwater monitoring after such action is taken is exactly the sort of "act first and study later" approach that courts have disallowed. What would the Commission do if groundwater monitoring concluded that the Lundy well was adversely affected by the installation of a pipeline? Order the Licensee to remove it? The EA is silent on this point and, in general, fails to identify any steps that would be taken if groundwater monitoring revealed impacts to domestic wells from the proposed conveyance.

Overall, the EA reflects a commendable staff effort to canvass the existing knowledge base and consider the voluminous public comments regarding the proposed conveyance. But it is also readily apparent from the EA that moving large quantities of water from Wilson Creek to Mill Creek through an enhanced return conveyance facility may have significant or unknown environmental impacts and that the intensity of those impacts simply cannot be ascertained from existing data. Nor for that matter can it be known from existing data whether and how those impacts may be adequately mitigated. Given such factors and also the highly controversial nature of the proposed conveyance, further study through the preparation of an EIS is clearly warranted and, indeed, is required by NEPA.

Thank you again for the opportunity to file this protest and comments.

Sincerely yours,

Mono County Board of Supervisors

By: _____
Byng Hunt, Chair

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF MONO

I, Michelle L. Robinson, the undersigned, declare that:

I am employed in the County of Mono, State of California. I am over the age of 18 and not a party to this cause. My business address is Mono County Counsel, 452 Old Mammoth Road, Post Office Box 2415, Mammoth Lakes, California 93546.

On October 20, 2010, I served a true copy of the foregoing document(s) described as **PROTEST and COMMENTS re Application for Non-Capacity License Amendment to Install Mill Creek Return Pipeline Improvement** on the specified representatives of the Applicant (Southern California Edison Company) in this proceeding (FERC No. 1390-063), listed below:

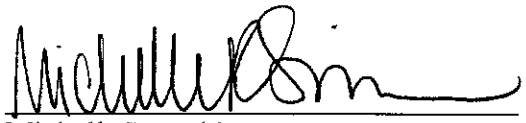
Kelly O'Donnell
Senior Attorney
Environmental Law & Licensing Section
SCE Law Department
P.O. Box 800
Rosemead, CA 91770

Arthur W. Adelburg
Loeb & Loeb LLP
601 Pennsylvania Avenue. NW – Ste.
900 South
Washington, DC 20004

BY MAIL

__X__ by placing a true copy thereof enclosed in a sealed envelope with first-class postage thereon fully prepaid, in a box designated by my employer for collection and processing of correspondence for mailing with the United States Postal Service, addressed as set forth above. I am readily familiar with the business practices of my employer for the collection and processing of correspondence for mailing with the United States Postal Service. The correspondence placed in the designated box is deposited with the United States Postal Service at Mammoth Lakes, California, the same day in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 20, 2010, at Mammoth Lakes, California.



Michelle L. Robinson

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE	October 8, 2013	**DEPARTMENT**	County Counsel
ADDITIONAL DEPARTMENTS	Public Works, Risk Management		
TIME REQUIRED	25 minutes (10 minute presentation, 15 minute discussion)	**PERSONS APPEARING BEFORE THE BOARD**	Marshall Rudolph
SUBJECT	Masonic Gun Range MOU		

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed Memorandum of Understanding (MOU) with the Bridgeport Gun Club regarding operation of the Masonic Gun Range.

RECOMMENDED ACTION:

Approve County entry into proposed MOU regarding operation of the Masonic Gun Range, and authorize the Board Chair to sign said MOU on behalf of the County.

FISCAL IMPACT:

None. All services to be performed by the Gun Club are free of charge to the County.

CONTACT NAME: mrudolph@mono.ca.gov

PHONE/EMAIL: (760) 924-1707 / mrudolph@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

MINUTE ORDER REQUESTED:

☐ YES ☑ NO

ATTACHMENTS:

Click to download

- Gun Club Staff
- Gun Club MOU
- BLM lease

gun range site plan

History

Time	Who	Approval
10/1/2013 10:41 AM	County Administrative Office	Yes
10/1/2013 10:35 AM	County Counsel	Yes
10/2/2013 4:18 PM	Finance	Yes

County Counsel
Marshall Rudolph

Assistant County Counsel
Stacey Simon

Deputy County Counsels
John-Carl Vallejo
Christian Milovich

OFFICE OF THE
COUNTY COUNSEL
Mono County
South County Offices
P.O. BOX 2415
MAMMOTH LAKES, CALIFORNIA 93546

Telephone
760-924-1700
Facsimile
760-924-1701

Legal Assistant
Jennifer Senior

TO: Board of Supervisors

FROM: Marshall Rudolph

DATE: October 8, 2013

RE: Proposed MOU Regarding Operation of the Masonic Gun Range

Recommendation:

Approve County entry into proposed MOU with the Bridgeport Gun Club regarding operation of the Masonic Gun Range, and authorize the Board Chair to sign said MOU on behalf of the County.

Fiscal/Mandates Impact:

None. All services of the Gun Club under the MOU are provided free of charge.

Discussion:

The proposed MOU memorializes the understanding of the County and the Bridgeport Gun Club regarding their respective roles and responsibilities in operating a public shooting facility on 47 acres of BLM property near Highway 182 and Masonic Road, which was leased to the County in 1997 for that express purpose. A copy of the lease is enclosed as well as a site plan by Public Works. The lease contains numerous conditions and requirements pertaining to the construction and operation of the facility, some of which were revised by BLM earlier this year. The facility has been constructed and all lease conditions required for its public utilization have now been satisfied – primarily by the Gun Club, who has spearheaded the project from the beginning. All services and work of the Gun Club, both to date and prospectively under the MOU, are provided free of charge.

It is worth noting that before the lease was entered into, the BLM prepared an environmental assessment under NEPA, and many of the lease conditions reflect an

effort to mitigate or avoid potential environmental impacts. For example, the lease substantially limits the facility's operating days and hours during deer migration periods in the spring and fall. (See lease Exhibit "A," stipulation #10.) It is unclear whether the County did any environmental analysis or made any determinations under CEQA. In any event, the statute of limitations for challenging the County's compliance with CEQA with respect to its 1997 decision to enter into the lease has long since expired.[1] At this point, the County is simply memorializing the respective roles and responsibilities of itself and the Gun Club in operating the existing facility pursuant to the lease's detailed requirements and conditions; it is not approving or making discretionary policy decisions about any aspect of facility operations.[2]

It is also worth noting that the process which led to the 1997 lease issuance began in 1992 with an application to BLM by the County. From the start, it was contemplated that the facility would be constructed and operated with assistance from the Bridgeport Gun Club. Between 1993 and 1997, at least one resident protested and/or appealed the decision, raising noise concerns, and noise tests were subsequently performed. Ultimately, the protest/appeal process was concluded and BLM was able to complete its issuance of the lease. Since then, there have been several meetings of interested parties, including representatives of the Sheriff's Department, and as noted above, certain lease conditions in the Plan of Development were revised by BLM in 2013 (which did not trigger new environmental analysis). And the Gun Club completed construction of the facility in compliance with lease requirements. Most recently, the Gun Club and the County's Public Works Department, in consultation with BLM staff, have worked cooperatively on satisfying certain other conditions of approval, such as signage requirements.

The operation of a public shooting facility obviously raises safety and liability concerns, and thus the lease contains many provisions intended to address those issues. Among other things, the lease requires both the County and the Gun Club to carry at least $1 million of liability insurance. The proposed MOU reiterates that requirement, and requires the Gun Club to name and County as an additional insured with insurance acceptable to both County Counsel and the Risk Manager. The Gun Club has already obtained and presented the County with evidence of insurance coverage, which the Risk Manager has reviewed.

---

[1]CEQA's longest statute of limitations, applicable when an agency approves a project without making any attempt to comply with CEQA, is 180 days. (Pub. Res. Code § 21167(a).)

[2]Accordingly, entry into the MOU is either not a "project" under CEQA or is exempt from CEQA review as a Class 1 Categorical exemption, for operations of existing facitilies. (14 Cal.Code of Regs § 15301.)

Representatives from BLM and the Gun Club will be at the Board meeting to answer any questions the Board may have, as well as County staff (including Public Works facilities manager Joe Blanchard).[3] The BLM representatives may also wish to address the BLM's stated intention to close other gun ranges in Bridgeport, primarily in the vicinity of the County Road shop and Caltrans building, once the Masonic Range is operational. That intended closure has been BLM's position for many years as a quid pro quo for the establishment of the new Masonic Gun Range, and has been accepted by the Gun Club and other users of the current gun range such as the Sheriff's Department. Reasons for closing the existing gun range include the possibility (however unlikely) of a stray bullet striking a visitor at the BLM's travertine hot springs facility.

If you have any questions, please call me at (760) 924-1707.

[3]As of the time this staff report is being finalized, BLM staff has notified me that because of the Government shutdown, they may not be able to attend the meeting.

Memorandum of Understanding
Regarding Operation of the
Masonic Gun Range

This Memorandum of Understanding is entered into this 8th day of October, 2013, by and between the County of Mono, a political subdivision of the State of California ("the County") and the Bridgeport Gun Club, a California nonprofit corporation ("the Gun Club") for the purpose of memorializing their understanding with respect to operation of a public shooting facility on certain real property on Masonic Road, which was leased to the County by the United States Department of the Interior's Bureau of Land Management ("BLM"). The County and the Gun Club are sometimes referred to herein as "the parties."

I. Recitals

A. In 1997, the County accepted and signed a 25-year lease from BLM of 47 acres of certain real property consisting of a portion of APN: 008-010-005, accessible via Masonic Road, for a public shooting facility ("the facility"); specifically, BLM Recreation and Public Purpose Lease Number CACA 30669, which is incorporated herein by this reference, as the same may be amended from time to time ("the lease"). Lease conditions provide for the Gun Club to assist the County in the construction and operation of the facility.

B. The facility has now been constructed by the Gun Club and various lease conditions and stipulations have been complied with by the Gun Club and the County, including those set forth in certain 2013 changes made by BLM to the lease's Plan of Development in order to improve the facility's use flexibility and safety. Based on said compliance, BLM has indicated that the facility may now be opened to the public and utilized.

C. Prior to said opening and utilization, the County and the Gun Club wish to memorialize their understanding of their respective roles in operating and utilizing the facility.

II. Understanding

NOW, THEREFORE, the parties' understanding (and agreement) is as follows:

1. **Term**. This MOU shall be deemed entered into as of the date first written above and shall continue in effect until the lease expires or until the MOU is terminated by the parties, whichever occurs first.

2. **Facility Operation and Right of Entry/Occupation**. The Gun Club shall have primary responsibility for day-to-day operation of the facility, which shall be open to the public and otherwise operated in full compliance with all lease conditions, requirements, and stipulations, including but not limited to those set forth in the Plan of Development. As such, it is hereby given the non-exclusive right to enter and occupy the facility premises

(as described in the lease) at any and all times for purposes carrying out its responsibilities, regardless of whether the facility is otherwise open or capable of being utilized under the lease terms. For purposes of this MOU, operation of the facility shall include any maintenance reasonably necessary to keep the facility in good, safe condition. Notwithstanding the foregoing, because the County is the lessee and thus ultimately accountable to the BLM for lease compliance, the Gun Club understands that its operation of the facility is subject to the County's oversight and final authority regarding any operational details. The County also reserves the right to assume or perform any function with respect to operation of the facility in its discretion, in addition to or in lieu of the Gun Club's performance of that function, but shall use its best efforts to provide advance notice to the Gun Club before exercising that right.

The Gun Club and the County shall communicate regularly and work cooperatively through their designated representatives to ensure that lease requirements are met and that the parties are aware of when and how the facility is being utilized. At all times during this MOU, the Gun Club and the County shall provide each other with the current name, title, and contact information for its primary representative with respect to this MOU. As of the date this MOU in entered into, the County's primary representative is Joseph Blanchard (Mono County Public Works Facilities Division) and the Gun Club's primary representative is Albert Pegorare, president of the Gun Club.

The Gun Club and the County shall mutually determine the first day that the facility will be officially opened to use by the public after entry into this MOU. The parties will attempt to work together regarding any press releases or other public communications providing information regarding the facility. The parties further understand that upon said public opening or at some date thereafter, the BLM intends to close the gun range facilities presently located on other BLM lands in Bridgeport which are leased to the County (APN: 008-060-046) and to CalTrans (APN: 008-060-055).

3. **Facility Usage.** The parties understand that the facility will likely be utilized not only by the Gun Club and by the general public, but also by various law enforcement agencies, including but not limited to employees of the Mono County Sheriff's Department, the California Highway Patrol, and the California Department of Fish and Wildlife. The Gun Club shall use its best efforts, working with the County, to avoid and minimize any usage conflicts at the site so that the reasonable needs of all users can be met and that all users have fair and equal access to the site, to the extent reasonably practicable. The Gun Club understands that all usage must be free of charge unless or until the County directs otherwise.

4. **Consideration**. The Gun Club's services and activities under this MOU will be provided free of charge for the benefit of its members, the public, and the County, and not for compensation. Thus, the County shall not be required to fund or reimburse any costs or expenses of the Gun Club in operating the facility or otherwise complying with this

MOU, nor any costs or expenses of the Gun Club incurred prior to entering into this MOU. Similarly, the Gun Club shall not be required to pay rent nor to fund or reimburse the County for any costs or expenses of the County in operating the facility or complying with this MOU or incurred prior to entering into this MOU. The Gun Club further agrees that any physical improvements it has made to the site are donations to the County and shall remain property of the County on the site in the event this MOU is terminated by the County; provided, however, that in the event BLM ever requires removal of any of those improvements (e.g., in the event the lease expires and is not renewed by BLM), then the Gun Club shall be responsible, working with the County, for removing the improvements and restoring the facility site, all in accordance with the terms of the lease.

5. **Insurance.** The Gun Club shall procure and maintain while this MOU is in effect a policy of Comprehensive General Liability Insurance which covers operation and utilization of the facility and all of the work and services to be performed by the Gun Club under this MOU. Such policy shall provide limits of not less than $1,000,000.00 combined single limit (CSL) per occurrence. Such policy will not exclude or except from coverage any of the services and work required to be performed by the Gun Club under this MOU. The required policy of insurance shall be issued by an insurer authorized to sell such insurance by the State of California, and have at least a "Best's" policyholder's rating of "A" or "A+". Prior to performing any work or services under this MOU (and prior to opening the facility to the public), the Gun Club shall provide the County: 1) a certificate of insurance evidencing the coverage required; (2) an additional insured endorsement applying to the County of Mono, its agents, officers and employees; and 3) a notice of cancellation or change of coverage endorsement indicating that the policy will not be modified, terminated, or canceled without thirty (30) days written notice to the County. Any insurance coverage intended to satisfy the requirements of this MOU and the lease must be approved by the County Counsel and the County's Risk Manager.

   Any deductibles or self-insured retentions must be declared and approved by Mono County. If possible, the Insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to Mono County, its officials, officers, employees, and volunteers; or the Gun Club shall provide evidence satisfactory to Mono County guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

6. **Status of Gun Club**. All acts of the Gun Club, its agents, officers, and employees, relating to the performance of this MOU, shall be performed as independent contractors, and not as agents, officers, or employees of the County. The Gun Club, by virtue of this MOU, has no authority to bind or incur any obligation on behalf of, or exercise any right or power vested in, the County. No agent, officer, or employee of the County is to be considered an employee of the Gun Club, nor vice versa. It is understood by both the Gun Club and County that this MOU shall not, under any circumstances, be construed to create an employer-employee relationship or a joint venture.

7. **Defense and indemnification**. The Gun Club shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from or in connection with, the performance of this MOU by the Gun Club, or the Gun Club's agents, officers, or employees. The Gun Club's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, damage or destruction to tangible or intangible property, including the loss of use. The Gun Club's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other costs that are caused in whole or in part by any act or omission of the Gun Club, its agents, employees, supplier, or anyone directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

   The Gun Club's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this MOU for the Gun Club to procure and maintain a policy of insurance.

8. **Nondiscrimination**. During the performance of this MOU, the Gun Club, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this MOU, because of race, religious creed, color, ancestry, national origin, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. The Gun Club and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. The Gun Club shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act.

9. **Termination**. This MOU may be terminated by either party without cause, and at will, for any reason by giving to other party sixty (60) days written notice of such intent to cancel.

10. **Assignment**. This is an MOU for the personal services of the Gun Club. County has relied upon the skills, knowledge, experience, and training of the Gun Club as an inducement to enter into this MOU. The Gun Club shall not assign or subcontract this MOU, or any part of it, without the express written consent of the County.

11. **Default**. If the Gun Club abandons the work or services required under this MOU or fails to proceed with such work and services in a timely manner, or fails in any way as required to conduct the work and services as required by the County, the County may declare the

Gun Club in default and terminate this MOU upon five (5) days written notice to the Gun Club.

12. **Waiver of default**. Waiver of any default by either party to this MOU shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this MOU shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this MOU unless this MOU is modified as provided in paragraph 14 below.

13. **Severability**. If any portion of this MOU or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this MOU, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this MOU are severable.

14. **Amendment.** This MOU may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form, and executed with the same formalities as this MOU, and attached to the original MOU to maintain continuity.

15. **Notice.** The parties may (and intend to) communicate regularly and informally through personal contacts, telephone calls, and any other means deemed efficient under the circumstances. But any formal notice, communication, amendments, additions or deletions to this MOU, including change of address of any party during the term of this MOU, which the Gun Club or County shall be required, or may desire to make, shall be in writing and may be personally served, or sent by prepaid first-class mail to the respective parties as follows:

County of Mono:
Department of Public Works
Attn: Facilities Division
PO Box 457
Bridgeport, CA 93517

The Gun Club:
The Bridgeport Gun Club
P.O. Box 144
Bridgeport, CA 93517

16. **Entire MOU.** This MOU contains the entire understanding and agreement of the parties, and no representations, inducements, promises, or MOUs otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect.

Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless executed in writing by the parties hereto.

17. **Joint preparation; legal counsel.** The parties have jointly drafted and prepared this MOU, thus any ambiguity shall not be construed against either party. Furthermore, both parties have had the opportunity to be represented by legal counsel with respect to the preparation of this MOU if they so desired.

III. Execution. The parties have executed this MOU through their authorized representatives below, which shall be deemed to have occurred on the date first written above. This MOU may be executed in counterparts, which together shall be considered one original.

COUNTY OF MONO

By:_____
Byng Hunt, Chair
Board of Supervisors

BRIDGEPORT GUN CLUB

By:_____
Albert Pegorare, President

APPROVED AS TO FORM:

_____
County Counsel

APPROVED AS TO INSURANCE/RISK MGMT:

_____
County Risk Manager

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Bishop Resource Area
785 North Main Street, Suite E
Bishop, California 93514-2498

IN REPLY REFER TO:

CACA 30669 | August 20, 1997 | CA017.10
2800-P

DECISION

County of Mono		
Parks and Recreation Dept.	=	Recreation and Public Purpose
P.O. Box 637	=	Lease CACA 30669
Bridgeport, CA 93517	=	

Lease Issued

On June 24, 1992 an application for a public shooting facility lease CACA 30669 was filed by the County of Mono under the Recreation and Public Purpose Act, as amended (43 U.S.C. 869). The 47 acre lease was for the construction, operation, maintenance and termination of a public shooting facility consisting of a rifle range, pistol range, trap and skeet range, archery range and a gun safety course generally located in:

Mount Diablo Meridian,

T. 5 N., R. 25 E., Section 10,
S1/2S1/2NW1/4NW1/4NW1/4, SW1/4NW1/4NW1/4,
W1/2SW1/4NW1/4, S1/2S1/2SE1/4SW1/4NW1/4,
N1/2NW1/4NW1/4SW1/4, NE1/4NW1/4SW1/4,
Excepting therefrom those public lands south of WSA CA-010-102 boundary
as shown on the Bureau of Land Management Master Title Plats.

On March 14, 1997 a Notice of Realty Action was published in the Federal Register which classified the land as suitable for a shooting facility lease. The classification was effective on May 13, 1997. The rent for the facility is exempted per regulations. A management plan for the facility has been filed. The proposed lease was analyzed in environmental assessment CA-017-97-21 and was found acceptable with mitigation. The County accepted and signed the proposed lease by Minute Order 97-242.

Under the authority of the Recreation and Public Purpose Act, as amended (43 U.S.C. 869, et seq.) I hereby issue a 25 year lease (renewable) to the County of Mono for a 47 acre public shooting facility located near Bridgeport, California. The effective date of the lease is June 25, 1997. The patent provisions under 43 CFR 2740 regulations do not apply to the lease due to mule deer habitat. Prior to any surface disturbing activity, the County will contact the BLM

Bishop Resource Area Office so that the management plan and stipulations can be reviewed on site. It is in the public's interest to issue the lease in order to promote recreational shooting use and to help the area's economics and safety.

Genivieve D. Rasmussen
Area Manager, Bishop Resource Area

Form 2912-1
(July 1984)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RECREATION OR PUBLIC PURPOSES LEASE

Act of June 14, 1926, as amended (43 U.S.C. 869 *et. seq.*)

Serial Number

CACA 30669

This lease entered into on this 25 day of June, 1997, by the United States of America, the lessor, through the authorized officer of the Bureau of Land Management, and

THE COUNTY OF MONO, CALIFORNIA
PARKS AND FACILITIES DEPARTMENT
P.O. BOX 637
BRIDGEPORT, CA 93517

, hereinafter called the lessee, pursuant and subject to the terms and provisions of the Recreation and Public Purposes Act and to all reasonable regulations of the Secretary of the Interior now or hereafter in force when not inconsistent with any express and specific provisions herein, which are made a part hereof,

WITNESSETH:

Sec. 1. The lessor, in consideration of the rents to be paid and the conditions to be observed as hereinafter set forth, does hereby grant and lease to the lessee the right and privilege of using for the purposes hereinafter set forth in the following-described lands:

Mount Diablo Meridian,

T. 5 N., R. 25 E., Section 10,

S1/2S1/2NW1/4NW1/4NW1/4, SW1/4NW1/4NW1/4,
W1/2SW1/4NW1/4, S1/2S1/2SE1/4SW1/4NW1/4,
N1/2NW1/4NW1/4SW1/4, NE1/4NW1/4SW1/4,

Excepting, therefrom those public lands south of WSA CA-010-102 boundary shown on the Bureau of Land Mgmt. Master Title Plats.

containing 47 acres, together with the right to construct and maintain thereon all buildings or other improvements necessary for such use for a period of 25 years, the rental to be $ N/A per annum. If, at the expiration date of the lease the authorized officer shall determine that the lease may be renewed, the lessee herein will be accorded the privilege of renewal upon such terms as may be fixed by the lessor. The lessee may use the premises for

THE BRIDGEPORT PUBLIC SHOOTING FACILITY

Sec. 2. There are reserved to the United States all mineral deposits in said lands, together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior.

Sec. 3. The lessor reserves the right of entry, or use, by

(a) any authorized person, upon the leased area and into the buildings constructed thereon for the purpose of inspection;

(b) Federal agents and game wardens upon the leased area on official business;

(c) the United States, its permittees and licensees, to mine and remove the mineral deposits referred to in Sec. 2, above.

Sec. 4. In consideration of the foregoing, the lessee hereby agrees:

(a) To improve and manage the leased area in accordance with the plan of development and management designated as

Exhibit B, Plan of Development (2-28-97)
Exhibit C, Map C Site Map (7-8-94)

and approved by an authorized officer on March 4, 1997 or any modification thereof hereinafter approved by an authorized officer, and to maintain all improvements, during the term of this lease, in a reasonably good state of repair.

(b) To pay the lessor the annual rental above set forth in advance during the continuance of this lease.

(c) Not to allow the use of the lands for unlawful purposes or for any purpose not specified in this lease unless consented to under its terms; not to prohibit or restrict, directly or indirectly, or permit its agents, employees, contractors (including, without limitation, lessees, sublessees, and permittees), to prohibit or restrict the use of any part of the leased premises or any of the facilities thereon by any person because of such person's race, creed, color, sex, or national origin.

(d) Not to assign this lease or to change the use of the land, without first receiving the consent of the authorized officer of the Bureau of Land Management.

(e) That this lease may be terminated after due notice to the lessee upon a finding by the authorized officer that the lessee had failed to comply with the terms of the lease; or has failed to use the leased lands for the purposes specified in this lease for a period of consecutive years; or that all or part of the lands is being devoted to some other use not consented to by the authorized officer; or that the lessee has not complied with his development and management plans referred to in subsection 4(a).

(f) That upon the termination of this lease by expiration, surrender, or cancellation thereof, the lessee, shall surrender possession of the premises to the United States in good condition and shall comply with such provisions and conditions respecting the removal of the improvements of and equipment on the property as may be made by an authorized officer.

(g) To take such reasonable steps as may be needed to protect the surface of the leased area and the natural resources and improvements thereon.

(h) Not to cut timber on the leased area without prior permission of, or in violation of the provisions and conditions made by an authorized officer.

(i) That nothing contained in this lease shall restrict the acquisition, granting, or use of permits or rights-of-way under existing laws by an authorized Federal officer.

Sec. 5. *Equal Opportunity Clause.* Lessee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 6. The lessee may surrender this lease or any part thereof by filing a written relinquishment in the appropriate BLM office. The relinquishment shall be subject to the payment of all accrued rentals and to the continued obligation of the lessee to place the lands in condition for relinquishment in accordance with the applicable lease terms in subsections 4(f) and 4(g) and the appropriate regulations.

Sec. 7. The lessee further agrees to comply with and be bound by those additional terms and conditions identified as

Exhibit A, Stipulations dated June 25, 1997

and which are made a part hereof.

Sec. 8. No Member of, or Delegate to, the Congress, or Resident Commissioner, after his election or appointment, and either before or after he has qualified, and during his continuance in office, and no officer, agent, or employee of the Department of the Interior, except as otherwise provided in 43 CFR, Part 7, shall be admitted to any share or part of this lease, or derive any benefit that may arise therefrom, and the provisions of Title 18 U.S.C. Sections 431—433, relating to contracts, enter into and form a part of this lease, so far as the same may be applicable.

FOR EXECUTION BY LESSEE

IN WITNESS WHEREOF:

Tom Farnetti
(Signature of Lessee's Authorized Officer)

MONO COUNTY BOARD OF SUPERVISORS

Nancy Weiss
(Signature of Witness)

Clerk of the Board

July 15, 1997
(Date)

THE UNITED STATES OF AMERICA

By _____
(Authorized Officer)

AREA MANAGER, BISHOP RESOURCE AREA
(Title)

8/14/97
(Date)

This form does not constitute an information collection as defined by 44 U.S.C. 3502 and therefore does not require OMB approval.

* U.S. Government Printing Office: 1989-673-018/06006 R8

EXHIBIT A
BRIDGEPORT PUBLIC SHOOTING FACILITY
CACA 30669
STIPULATIONS
June 25, 1997

1. The lessee or his (its) successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations as modified or amended of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands leased herein are used for the purpose for which the lease was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.

2. If the lessee or his (its) successor in interest does not comply with the terms or provisions of Title VI of the Civil Rights Act of 1964, and the requirements imposed by the Department of the Interior issued pursuant to that title, during the period during which the property described herein is used for the purpose for which the lease was made pursuant to the act cited above or for another purpose involving the provision of similar services or benefits, the Secretary of the Interior or his delegate may declare the terms of this lease terminated in whole or in part.

3. The lessee by acceptance of this lease agrees for himself (itself) or his (its) successors in interest that a declaration of termination in whole or in part of this lease shall at the option of the Secretary or his delegate, operate to revest in the United States full title to the lands involved in this declaration.

4. The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations as modified or amended of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the lessee.

5. The lessee or his (its) successor in interest will, upon request of the Secretary of the Interior or his delegate, post and maintain on the property leased by this document signs and posters being a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the area or facility leased.

6. The reservations, conditions, and limitations contained in paragraph (1) through (5) shall constitute a covenant running with the land binding on the lessee and his (its) successors in interest for the period for which the land described herein is

used for the purpose for which this lease was made, or for another purpose involving the provision of similar services or benefits.

7. The assurances and covenant required by sections (1) - (6) above shall not apply to ultimate beneficiaries under the program for which this lease is made "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).

8. The lessee of Lease No. CACA 30669 agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resources Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et seq.) on the lease unless the release or threatened release is wholly unrelated to the lease holder's activity on the lease. This agreement applies without regard to whether a release is caused by the lessee, its agent, or unrelated third parties.

9. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the lessee shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.

10. Site is authorized for a public shooting facility and for use year-round except for deer migration spring and fall. The fall mule deer migration period will be recognized from October 15 through December 20, annually. The spring mule deer migration period will be recognized from April 1 through May 31, annually. As stated in this modified proposed action, the facility would be open on weekend days from 11 am to 2 pm during both migration periods and in the fall for the annual Turkey shoot. The facility is closed to shooting on other week days during the migratory periods.

11. No lights to illuminate the area for late dusk or nighttime shooting will be permitted.

12. Dogs will be prohibited from the facility at all times.

13. Two (2) wildlife "guzzlers" (water storage and drinking

system) will be constructed at locations to the east of the project designated by the BLM. Design specifications for each system will be determined by the BLM. Mono County will obtain all funding necessary to purchase materials for each system. Construction of each system will be done by Mono County at the direction of the BLM. All "guzzler" construction will be completed no later than five (5) years from the date of project approval.

14. All revegetated sites will be surveyed each year for signs of noxious weed invasion. Noxious weeds will be removed by hand for the first 2 years.

15. Backstop berms in the project area will require revegetation with native pinyon pine, bitterbrush, and grass species. The following are suggested revegetation specifications (see attachment 1 for suggested species list and native plant distributors). Broadcast stockpiled or dead brush on both sides of berms.

a) Seed collection of desired revegetation species within a 1 mile radius of project area.

b) Propagation or purchase of 2-4 year old pinyon and bitterbrush seedlings from containers that can be planted on-site.

c) Pre and post site preparation to include: application of top soil, mulch (weed-free straw or hydromulch), and slow release fertilizers.

d) Installation of irrigation system (drip or buried 1-2 liter capacity PVC pipe adjacent to transplants) or manual application of 1-3 liters (3.8 to 9 gallons) of water at 6 week intervals during the summer to shrub and tree species.

Revegetation Species List

Trees	Pinyon pine	Pinus monophylla
Shrubs	Antelope bitterbrush	Purshia tridentata
Grasses	Needle grasses:	Achnatherum thurberianum (= Stipa thurberiana) Achnatherum occidentalis (= Stipa occidentalis) Hesperostipa comota (= Stipa comota)

Indian rice grass	Achnatherum hymenoides (= Oryzopsis hymenoides)
Squirrel tail	Elymus elymoides (= Sitanion hystrix)
Great Basin wild rye	Leymus cinereus

16. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the lessee, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Lessee shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The lessee will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the lessee.

Sites identified in Cultural Resource Report CA-017-93-6 and CA-017-94-1 will be monitored on an annual basis to assure no secondary impacts from shooting facility activities are disturbing the sites. Should any conditions of the sites change, the Bureau will assess the situation and implement the appropriate measures to resolve the problem.

17. Post WSA boundary signs along the south edge of the WSA road boundary.

18. Sign both the Rock Springs and Mcmillian Springs jeep trails with, "Warning entering shooting area, Honk horn 3 times, Do not proceed until all shooting stops".

19. The use of non-toxic bullets/shot after 5 years of actual facility use will be required. Mono County will have the option after 5 years to continue to allow the use of lead projectiles at the facility if all lead is removed from the facility on an annual or regular basis or a study by a qualified hazardous materials specialist is undertaken by Mono County which shows that the long-term deposition of lead at the facility will not create a hazardous material problem. Prior to the 5 year deadline, BLM and Mono County representatives will meet to discuss the feasibility of each of these alternatives and what, if any, documentation will be necessary.

20. Mono County will develop a noise mitigation program during the first year of operation. During the first year of operation, the County will perform a sound test during a major event where both ranges are in operation. The sound test will be conducted according to NRA Range Manual, administered by a NRA qualified range technical advisior and observed by a BLM representative. Sound levels at the residences .5 mile south of the range exceeding the "acceptable" level as defined in the NRA Range Manual in Section 3.03.4.1(4) will be mitigated so as to meet this level prior to the next major event.

21. Lessee may make no more than a reasonable charge for the use of facilities on the land (whether by concession or otherwise) and may charge no more for entrance to or use of the area than is charged at other comparable installations managed by State and local agencies. All charges are subject to review by the authorized officer as part of the compliance check process.

22. The lease may be modified by the authorized officer based on recommendations by the Interior Board of Land Appeals concerning the Cole Appeal to State Director Decision to Lease. Lease modification may include structure removal, site reclamation, and/or termination of the lease. The appeal is currently before the Interior Board of Land Appeals, Case No. IBLA 95-229.

23. Prior to any surface disturbing activity, the lessee shall contact the authorized officer and set up a field meeting. The meeting will finalize all construction staking and construction parameters.

EXHIBIT B
BRIDGEPORT PUBLIC SHOOTING FACILITY
CACA 30669
PLAN OF DEVELOPMENT
February 28, 1997

The R&PP lease would be for 47 public land acres and made up of; three rifle/pistol ranges, elevated shooting platform, trap/skeet range with 4 stations, archery range, hunter safety training course, club house, picnic area, two restrooms, two parking lots and access road. The Bridgeport Gun Club would assist Mono County in the construction and operation of the shooting facility. Any structural facilities constructed or purchased by the Bridgeport Gun Club would become the property of the County of Mono. Both Mono County and the Bridgeport Gun Club carry $1,000,000+ liability insurance. The above facilities would be concentrated on 15 of the 47 acres. Total surface disturbance for the facilities (all vegetation would be removed) amounts to 0.9 acres. The facility would be operated year-round (except during deer migration), seven days a week from dawn to dusk and would be supervised during major shooting events. During spring and fall deer migration, the facility would be open on weekends only from 11 am to 2 pm and the facility would be fully open for the annual 2-day Turkey Shoot in the fall. The allotment boundary fence, the north/south R&PP boundaries and the jeep trails east of the rifle ranges would have warning signs. All structures would be painted olive green.

Refer to Map C. The rifle/pistol ranges, archery range and the safety hunting course would be located south of Masonic road. The rifle/pistol ranges would consist of two 250 yard ranges being 25 feet wide each and one 300 yard range being 25 feet wide. All ranges would have a full-width earthen backstop measuring 40 feet wide at the base with a height of 15 feet. Vegetation between the berms would not be removed but may be trimmed and a full length walkway 5 feet wide would be cleared between the short ranges. Up to 10 live pinyon or juniper trees would be removed for the ranges. At the eastern end of the 300 yard range, a 150 foot long access road would be constructed from the existing jeep trail to the backstop. Access to the 300 yard range for changing targets would be along the existing jeep trail. At the western end of the rifle/pistol ranges, an elevated covered wood shooting platform would be constructed and measuring 20 feet wide and 100 feet long. The platform would have a 4 foot elevation with a shed roof at 15 feet (crest). Adjacent to the platform would be a restroom (sewage pumped periodically). Access to the rifle range would be from a new road (15' wide and 250' long) connecting Masonic road and the south jeep trail and would parallel the shooting platform. There would be parallel parking between the platform and the road (10' by 100'). The road would bridge the ephemeral drainage.

Additional parking would be along Masonic road. All roads and parking areas would be graveled.

At the west end of the shooting facility, an archery and hunter's safety course would be constructed. The archery range would consist of stacked hay bale backstops with a shooting line and a roving range. The safety course would be a field oriented course complete with obstacles such as fencelines, brush, drainage etc. It is expected that a total disturbance of 500 square feet would be needed for various components of the archery and safety course. Parking would be on an existing disturbed area near the telephone line.

The trap/skeet range and the clubhouse/picnic area would be located on the north side of Masonic road. The cement and/or wood clubhouse would be 40 feet by 50 feet and the restroom (sewage pumped periodically) would be 10 feet by 10 feet. The picnic/barbecue area would be 20 feet by 100 feet and would have barbecues and tables. The barbecue area would have a 6' high block wall along two sides for wind break. There would be a 30' by 100' parking lot adjacent to Masonic road.

The trap and skeet range would be located about 1040' north of Masonic road and parallel to the existing telephone right-of-way. The range would consist of three trap fields and one trap/skeet combination field. Each trap field would consist of a 9'x 9'x 2.5' trap house and an associated 625 sq ft shooting station with concrete runways. The combination trap/skeet field has an additional 5 shooting stations totaling 2500 sq ft. with a high and low skeet house. The houses are 10'x 10'x 15' and 10'x 10'x 5'. Access to the range would be along an existing dirt road which services the telephone utility line. This road would be graded and graveled. A graveled parking lot 20' x 200' would be constructed opposite the trap range and between the telephone right-of-way and the access road.

Construction of the facility would take place over a 3 year period and would take place at any time of year except during deer migration. Construction travel would be within areas identified for disturbance. Fill for the backstops would be from the Bridgeport material pit. Access to the short range backstop would be along an existing dirt trail but would be widen to 12'. The berms and the backside of the backstops would be replanted with native vegetation (as per BLM discretion for species and rates). Native trees would be planted west and north of the rifle shooting platform, west of the clubhouse area and west of the high skeet range house. No activity (including foot traffic) would be allowed and east of the rifle/pistol ranges. Water and electrical utilities would be underground and would be located

along the Masonic road and the telephone line access road. The electrical tie-in would be from the main service line along Hwy 182. The water tie-in would be from a county owned well which exists adjacent to and west of the proposed facility. Shooting on the range would yield to livestock being trailed along Hwy 182. Livestock would not be permitted to stop or camp within the lease area.

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Bishop Field Office
351 Pacu Lane Suite 100
Bishop, California 93514
www.blm.gov/ca/bishop

January 16, 2013

CACA 030669 01
CA170.10
2740, 2912-P

Rita Sherman
County of Mono
Director of Facilities & Risk Mgmt.
P.O. Box 696
Bridgeport, CA 93517

Dear Mrs. Sherman:

This letter regards the changes to the Plan of Development for the Bridgeport Gun Club. As development of the range has progressed and through the meetings we had last year, it became apparent that the POD needed to be amended for improving the range's use flexibility and safety. These changes to the range development have been documented in the attached Exhibit A (Site Map) and Exhibit B (POD changes).

I have reviewed the changes that have taken place in development of the shooting range. These changes have been analyzed and are considered to be within the original direction and purpose for which the Recreation and Public Purpose lease was issued. The changes fall within the scope of the environmental document for the lease.

The Plan of Development is hereby amended to reflect the facility as shown on Exhibit A dated October 2, 2012 and the stipulations listed on Exhibit C. The stipulations resulted from the analysis. The original facility POD is retained unless amended in Exhibit A. All original stipulations for the lease are hereby retained unless amended by Exhibit C. Any further changes to the POD must be notified to this office.

Regarding the stipulations; 4, 7, and 8 must be in place before the range becomes operational. Stipulation 6 refers to painting. Painting may take place in the spring when temperatures are more conducive to proper paint curing.

I look forward to the opening of the shooting range. If you have any questions or need more information, please contact Larry Primosch at this office 760 872 5031.

Sincerely,

Bernadette Lovato
Field Manager
Bishop Field Office

Att: Exhibit A, B, and C

CC: Albert Pegorare

EXHIBIT B
Bridgeport Gun Club
Plan of Development Changes
CACA 030669-01

A. Three (3) pistol/rifle ranges; two were 250 yds, both 25 feet wide; and one 300 yds range being 25 feet wide, all with backstops.

   This has been reconfigured to: five (5) rifle ranges running from 25 yds, 50 yds, 100 yds, 250 yds, and 300 yds, all with backstops. And an exclusive pistol range measuring 30 feet by 50 feet. Combined backstop lengths decreased from 210 feet to 187 feet. Range re-configuration was authorized by BIFO in 2007.

B. Pistol range was on the north side of range.

   Range is now on the south side of rifle ranges and has a concrete safety wall being 7 feet high and 95 feet long. Range re-configuration was authorized by BIFO in 2007.

C. Elevated shooting platform spanning dry channel was to be 20 feet wide and 100 feet long with covered shed roof. Platform 4 feet off ground and shed roof crest was 15 feet over platform.

   This shooting platform has been eliminated. Rifle ranges have been moved south about 30 feet and replaced with six (6) ground based shooting stands at about 30" high.

D. Rifle range access road 15 feet by 250 feet with bridge connecting Masonic road to Old Masonic road.

   This access road has been eliminated. The access is now from the telephone pole maintenance road to the parking lot adjacent to the firing line. This access utilizes an existing dirt road and is 15 feet wide and 200 feet long. Access road change authorized by BIFO in 2007.

E. Rifle range parking lot was to be 10 feet wide and 100 feet long. Trap/skeet range parking lot were to be 20 feet by 200 feet and 30 feet by 100 ft.

   The rifle range parking lot is now 75 feet wide and 100 feet long. The trap/skeet range parking lot was increased in length by 270 feet.

F. Total disturbed area for the gun club including all facilities was 0.9 acres. No vegetation between the backstops and firing range was to be removed but could be trimmed, and a 5 feet wide walkway was allowed between the two 250 yd ranges.

   Reconfiguration of the two 250 yd rifle ranges to five (5) resulted in blading off vegetation in front of the short ranges. Surface covered with vegetation chips. The

trap/skeet range parking lot's increase resulted in an additional vegetation loss. Total vegetation loss has increased by 0.62 acre, from 0.9 acres to 1.52 acres.

G. The vegetation between the firing range and the various backstops up to the 100 yd backstop was removed and resulted in 22,500 ft2 of vegetation loss; eliminating the access road from Masonic to Old Masonic road reduced vegetation loss by 3,750 ft2, changing the rifle range parking lot size resulted in 6,500 ft2 vegetation loss, changing the trap/skeet range parking lot resulted in 5,400 ft2 vegetation loss, an access road to the 250 yd backstop did not result in vegetation loss since this road was to be built in the original POD but in a different location, mowing of the vegetation in front of the 300 yd backstop which measured 75 feet by 500 feet resulted in 35,000 ft2 of vegetation loss. This 35,000 ft2 loss has not used in calculating the total vegetation loss because this area has begun to naturally rehab with sagebrush, bitterbrush and perennial grasses species. The original POD allowed for trimming the brush but not to this extent. It is expected that this area will be fully re-vegetated within 2 years.

H. All access roads and parking areas were to be graveled.

The access roads and parking areas have been covered with asphalt grindings.

I. Old Masonic road (McMillian Spg) was supposed to be open but signed for safety concerns when range was in operation. It was also to be used for access to 300 yd range. Old Masonic road and Rock Springs canyon road (roads intersect at the "Y") were supposed to be signed with "Warning entering shooting area, Honk horn 3 times, Do not proceed until all shooting stops".

A field test at the gun club site concluded that no one could hear a horn blast from that distance or vehicle orientation. It was determined that the Old Masonic road should be gated and locked at the gun club access road and at the "Y". A restricted access would be provided to the; Mono County, Fire Agencies, Livestock operator, Native Americans for pinyon nut gathering, Gun Club, and BLM (special recreation events).

In addition, both Old Masonic road (McMillian Spg) and Rock Springs canyon roads would be signed at the furthest points informing that the connection to Hwy 182 was no longer possible and where alternative routes exist.

The dirt road has been gated and will have restricted/administrative use as described above. This change was analyzed in an environmental assessment titled, "Old Masonic Road Designation", DOI-BLM-CAC-070-2012-0035-EA, dated 7-30-2012.

J. There was a need to sign the southern boundary of the Old Masonic road with WSA signs.

The WSA designation was removed by Congress. There is no need for this signage.

EXHIBIT C
Bridgeport Gun Club
Stipulations
CACA 030669-01

1. Authorize site for use year-round except for deer migration spring and fall. The fall mule deer migration period will be recognized from October 15 through December 20, annually. The spring mule deer migration period will be recognized from April 1 through May 31, annually. The facility would be open on weekend days from 11 am to 2 pm during both migration periods and in the fall for the annual Turkey shoot. The facility is closed to shooting on other week days during the migratory periods.

2. All re-vegetated sites will be surveyed each year for signs of noxious weed invasion. Noxious weeds will be removed by hand for the first 2 years.

3. Backstop berms in the project area will require re-vegetation with native pinyon pine, bitterbrush, and grass species

4. Target standards (target framing) should be made of a type of material from ground level to top to reduce potential of ricochets on the rifle range. Wood is the most likely material.

5. Standard right-of-way stipulation for cultural resource protection. Sites identified in Cultural Resource Report CA-017-93-6 and CA-017-94-1 will be monitored on an annual basis to assure no secondary impacts from shooting facility activities are disturbing the sites. Should any conditions of the sites change, the Bureau will assess the situation and implement the appropriate measures to resolve the problem.

6. All shooting benches except for the bench tops will be painted flat dark olive green. The bench tops can be stained or painted flat dark olive green, brown, or black. The pistol range concrete block wall and trap/skeet houses will be painted flat dark olive green.

7. Sign the junctions of all main roads (Old Masonic road aka McMillian road) leading to the rifle/pistol range to advise the public of a locked gate ahead and post a map of alternative routes.

8. Provide maps showing open routes in the general area via a map box on each of the locked gates. Provide contact information on the gates for both Mono County public works and BLM Bishop Field Office 760 872 5033.

9. No other areas or roads will be covered with asphalt grindings without BLM authorization.

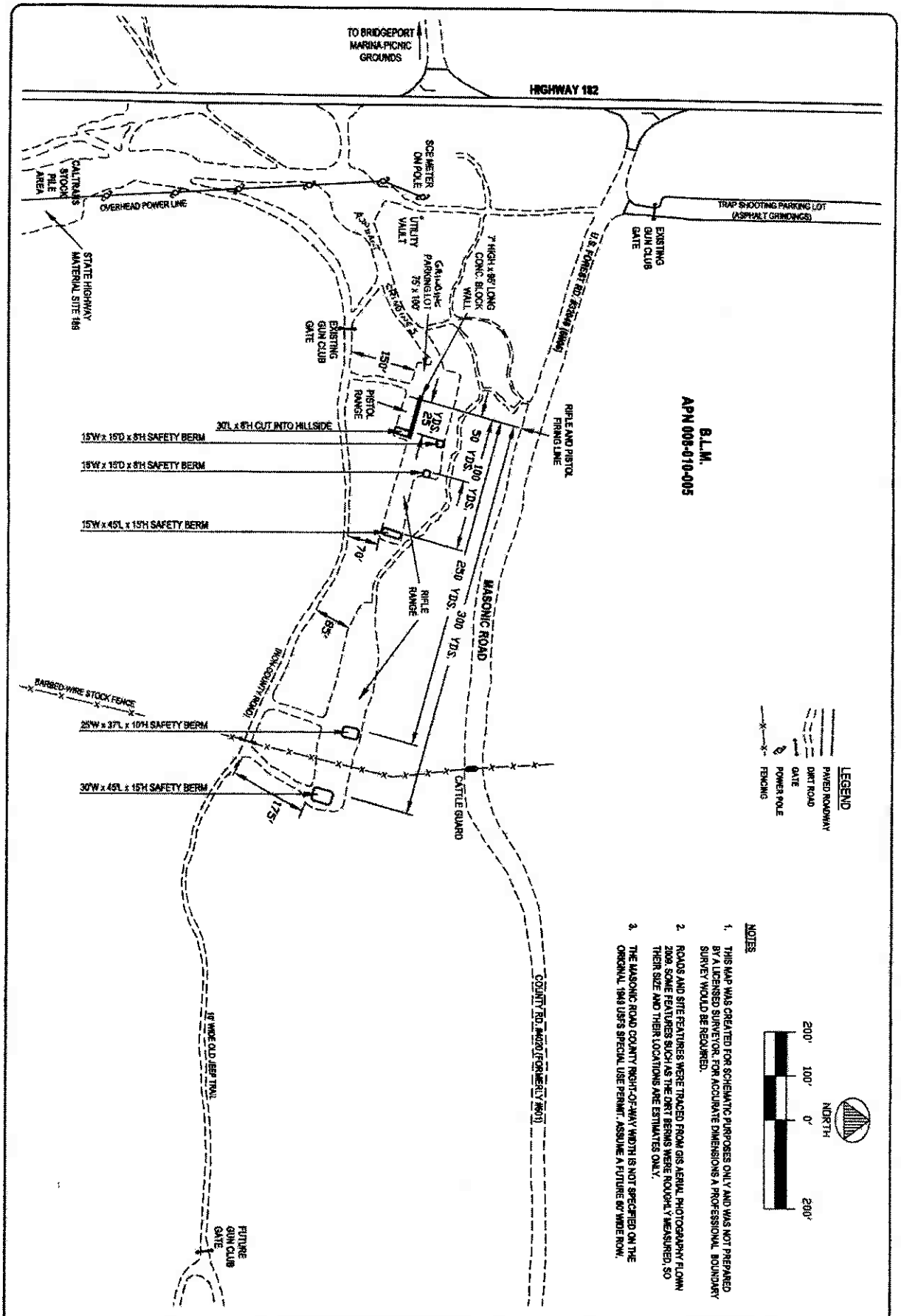


Exhibit A	MASONIC SHOOTING RANGE PORTION OF APN 008-010-005 Mono County, California	MONO COUNTY PUBLIC WORKS DEPARTMENT
	SCHEMATIC SITE PLAN	Drawing Date: 10/02/12 Prepared By: W.L., Engr.Tech Checked By: Approved By: Rita Sherman

Rev.#	Date	Revision

OFFICE OF THE CLERK
OF THE BOARD OF SUPERVISORS

REGULAR AGENDA REQUEST

Print

MEETING DATE	October 8, 2013	**DEPARTMENT**	Finance
ADDITIONAL DEPARTMENTS			
TIME REQUIRED	60 min. (5 min. presentation, 55 min. discussion)	**PERSONS APPEARING BEFORE THE BOARD**	Leslie Chapman
SUBJECT	Prop 172 Revenue Allocation		

AGENDA DESCRIPTION:

(A brief general description of what the Board will hear, discuss, consider, or act upon)

Proposed resolution, A Resolution of the Mono County Board of Supervisors changing the Allocation of Proposition 172 Funds Received by Mono County.

RECOMMENDED ACTION:

Adopt the proposed resolution #R13-_____, changing the allocation of Proposition 172 Funds Received by Mono County and approve related budget changes (4/5ths vote required).

FISCAL IMPACT:

This resolution changes the allocation of the total revenue within the County budget but does not change the total general fund allocation.

CONTACT NAME: Leslie Chapman

PHONE/EMAIL: 760-932-5494 / lchapman@mono.ca.gov

SUBMIT THE ORIGINAL DOCUMENT WITH ATTACHMENTS TO THE OFFICE OF THE COUNTY ADMINISTRATOR
PRIOR TO 5:00 P.M. ON THE FRIDAY
32 DAYS PRECEDING THE BOARD MEETING

SEND COPIES TO:

Marshall Rudolph
Leslie Chapman

MINUTE ORDER REQUESTED:

☑ YES ☐ NO

ATTACHMENTS:

Click to download

- Staff Report
- Resolution - Prop 172 Reallocation

History

Time	Who	Approval
10/2/2013 4:28 PM	County Administrative Office	Yes
10/2/2013 6:04 PM	County Counsel	Yes
10/2/2013 3:35 PM	Finance	Yes

DEPARTMENT OF FINANCE
COUNTY OF MONO

Rosemary Glazier
Assistant Finance Director
Treasurer-Tax Collector

P.O. Box 495
Bridgeport, California 93517
(760) 932-5480
Fax (760) 932-5481

Leslie L. Chapman, CPA
Finance Director

Roberta Reed
Assistant Finance Director
Auditor-Controller

P.O. Box 556
Bridgeport, California 93517
(760) 932-5490
Fax (760) 932-5491

To: Honorable Board of Supervisors

From: Leslie Chapman

Date: October 1, 2013

Re: Prop 172 reallocation

Subject:

Proposition 172, public safety fund reallocation resolution and related budget changes.

Recommendation:

1. Discuss the current and proposed allocation of sales tax proceeds under Proposition 172, Public Safety Augmentation Funds,
2. Approve the "Resolution of the Mono County Board of Supervisors Changing the Allocation of Proposition 172 Funds Received by Mono County," and
3. Approve budget amendments necessary to reflect today's reallocation decision (4/5th vote required).

Background:

During budget hearings, your board expressed a desire to reallocate Proposition 172 funds to the existing recipients and include the Emergency Medical Service (paramedic) program and fire protection districts. This discussion and action was tabled to a future meeting, so the resolution and proposed reallocation presented today represent staff's understanding of previous board discussions

In 1993, the voters approved Proposition 172, a legislative, constitutional amendment directing the proceeds of a .5% sales tax to be used exclusively for local public safety services. Your board has the discretion to change the allocation each fiscal year among eligible public safety/service agencies and has expressed the desire to include the paramedic program and fire districts. Historically, the proceeds have been divided between the Sheriff's department, the District Attorney and Probation.

Fiscal Impact:

Overall, there is no impact to the 2013-2014 Board Approved budget. This action represents a reallocation of existing revenue projections with a general fund backfill of the departments who will have a revenue reduction from reduced Prop 172 funds.

RESOLUTION NO. R13-

A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS CHANGING THE ALLOCATION OF PROPOSITION 172 FUNDS RECEIVED BY MONO COUNTY

WHEREAS, in 1993 the voters approved Proposition 172, a legislative constitutional amendment directing the proceeds of a 0.50 percent sales tax to be used exclusively for local public safety services; and

WHEREAS, Mono County annually receives such Proposition 172 funds, which the Board of Supervisors has historically allocated as follows:

- 75% Sheriff's Department
- 15% District Attorney's Department
- 10% Probation Department; and

WHEREAS, a board of supervisors has the discretion in each fiscal year to change the allocation of Proposition 172 funds among otherwise eligible public safety services and public safety service agencies including an allocation to an otherwise eligible public safety service/agency that did not receive an allocation in a prior year.

WHEREAS, Proposition 172 states that "public safety services" includes *but is not limited to* sheriffs, police, fire protection, county district attorneys, county corrections, and ocean lifeguards; and

WHEREAS, the Board of Supervisors finds and determines that Emergency Medical Services (EMS) such as those provided by the County's EMS (paramedic) program are a public safety service eligible for Proposition 172 funds; and

WHEREAS, the Board of Supervisors finds and determines that fire protection districts and other agencies who qualify as "first responders" for purposes of receiving funding from the County's "First Responder's Fund" are also public safety service agencies eligible for Proposition 172 funds; and

WHEREAS, the Board of Supervisors wishes to change the allocation of Proposition 172 funds for Fiscal Year 2013-14 and, during that same fiscal year, deems it appropriate to offset (backfill) the dollar amount of any funds shifted away from the public safety services who have historically received them (i.e., Sheriff, District Attorney, and Probation) with general fund dollars;

NOW, THEREFORE, BE IT RESOLVED by the Mono County Board of Supervisors as follows:

SECTION ONE: Commencing in the 2013-14 Fiscal Year (and continuing in effect until changed by the Board of Supervisors in a future fiscal year), Proposition 172 funds received by Mono County shall be allocated as follows:

- First 25% County Paramedic (EMS) Program
- Then $150,000 of the remaining balance to the First Responder's Fund
- Then of the remaining balance (after deducting for First Responder's Fund, 75% shall go the Sheriff's Department, 15% to the District Attorney, and 10% fo the Probation Department.

SECTION TWO: For the 2013-14 Fiscal Year, the allocation formula set forth above in Section One results in the following change in the allocation of Proposition 172 funds received by Mono County ($1,345,000):

	Former Formula	**As Changed**
Sheriff	$1,000,000	$638,476
District Attorney	205,000	130,888
Probation	140,000	89,387
Paramedics		336,250
First Responder's Fund		150,000

SECTION THREE: For the 2013-14 Fiscal Year, the dollar amount of the reduction in Proposition 172 funds received by Sheriff, District Attorney, and Probation as a result of the change in allocation -- described above in Section Two -- shall be offset (backfilled) by money from the County's general fund.

PASSED AND ADOPTED this ____ day of _____, 2013, by the following vote:

AYES :
NOES :
ABSTAIN :
ABSENT :

ATTEST: _____ _____
Clerk of the Board Byng Hunt, Chair
Board of Supervisors

APPROVED AS TO FORM:

COUNTY COUNSEL