MINUTES of the meeting of June, 27 2019, 9:30 AM, Council Chambers, Truckee Town Hall, 10183 Truckee Airport Road, Truckee, California

MEMBERS PRESENT: Chair Duncan and Commissioners Aguilar, Johansen, and Bullock.

MEMBERS ABSENT: Commissioner Coleman-Hunt.

STAFF PRESENT: Planning Director, Brian Foss; Principal Planner, Tyler Barrington; Deputy County Counsel, Rhetta VanderPloeg; Senior Planner Coleen Shade; Senior Planner, Matt Kelley; Senior Office Assistant, Shannon Paulus.

PUBLIC HEARINGS:

1. Boca Quarry Expansion Project Draft Environmental Impact Report
   U11-008, RP11-001 & EIR11-001  Page 2, Line 56

2. Hobart Mills Industrial Park
   PLN17-0097, U13-003 & EIS13-002  Page 5, Line 225

3. Van Norden Dam Spillway Modification Project
   U16-003, MGT16-010 & EIS16-003  Page 9, Line 425

STANDING ORDERS: Salute to the Flag - Roll Call - Corrections to Agenda.

CALL MEETING TO ORDER: The meeting was called to order at 9:33 a.m. Roll call was taken.

CHANGES TO AGENDA: Principal Planner Tyler Barrington noted that the time listed on the agenda to call the meeting to order was incorrectly listed as 9:00 a.m. Actual time for call to order was 9:30 a.m.

PUBLIC COMMENT: Members of the public shall be allowed to address the Commission on items not appearing on the agenda which are of interest to the public and are within the subject matter jurisdiction of the Planning Commission, provided that no action shall be taken unless otherwise authorized by Subdivision (6) of Section 54954.2 of the Government Code. None.

COMMISSION BUSINESS: None

CONSENT ITEMS:


Motion to approve the 03-07-2019 and 05-23-2019 Planning Commission Meeting Minutes by Commissioner Aguilar; second by Commissioner Johansen. Motion carried on a voice vote 4/0 (Commissioner Coleman-Hunt was absent)

PUBLIC HEARING:

U11-008, RP11-001 & EIR11-001: A public hearing to accept comments on the adequacy of the Draft Environmental Impact Report (EIS11-001) for the Boca Quarry Expansion Project. The proposed project is located on a 230-acre site which includes the existing 40-acre permitted quarry operation (East Pit) and the proposed 118-acre expansion area (West Pit). The proposed project would increase the allowable extraction/disturbance area by approximately 118-acres in the West Pit for a total project area of 158-acres and an increase in maximum production from 100,000 tons to one million tons per year. The actual yearly production would vary and would depend on the market demand. The proposed Conditional Use Permit (U11-008) anticipates the removal of 17 million tons of material in three phases over a 30-year period. LOCATION: West Hinton Road, Truckee CA. APN: 048-090-012 & 048-200-03. The project site is located in Nevada County, eight miles east of the center of the Town of Truckee, and five miles west of the California/Nevada state line. The Town of Truckee limits are approximately 0.6 miles west of the project site. The project site is directly north of Interstate-80. RECOMMENDED ACTION: Hold a public hearing to accept comments on the adequacy of the Draft Environmental Impact Report (EIS11-001); at the conclusion of the public hearing direct staff to respond in writing to all comments generated through this public hearing and those generated through the close of the required review period (July 8, 2019); and, prepare the Final Environmental Impact Report. PLANNER: Coleen Shade, Senior Planner.

Senior Planner Coleen Shade introduced herself and Project Manager Catherine Sylvester from Helix Environmental Planning and began her presentation. She described the purpose of the public hearing and explained that the project was only in draft at this time. She discussed the history of the project, previous work that had been done, and its CEQA history. She also discussed the current project and its location, and details of the mine expansion. She talked about changes that had been made due to comments that had been received, such as the haul route, and roadway improvements.

Ms. Sylvester stated that the Environmental Impact Report currently being circulated for public review was created in compliance with CEQA, and discussed what that entailed, including identifying impacts, informing decision makers and the public of those impacts, identifying ways to avoid or minimize those impacts, and public input. She added that CEQA does not advocate for or against a project, and does not prevent a lead agency from approving a project. She reviewed the EIR process and how it was effected by public input, and the circulation and approval process. She stated that the Notice of Preparation and Initial Public Scoping were done in 2012, and the Draft EIR that had been prepared was never circulated. The EIR currently in circulation addresses comments that had been made during the initial Notice of Preparation and public scoping process. She discussed topics addressed in detail, including those that could be mitigated to less than significant and those which were unavoidable, such as bicyclist safety. Some effects that were found to not be significant were still addressed in the EIR in a later section. She talked about feasible project alternatives, such as the No Project Alternative and Reduced Daily Production Alternative. She talked about the next steps for the project, including the preparation of the Final EIR, preparation of Findings and Statement of Overriding Consideration, and public hearings through the Planning Commission and Board of Supervisors. She reiterated that the purpose of the meeting was to receive comment on the Draft EIR, which could be verballized or written comment could be sent to the Planning Department before July 8, 2019.
Planner Shade asked for any questions or clarifications, and recommended that the Commission open the public hearing.

Chair Duncan asked if the applicant was present to make a statement.

Planner Shade stated that the applicant was present, however they did not intend to make a statement.

Michael Smith with Teichert introduced himself to the Commission, and stated that they were there to take note and to listen in, however they were available to answer specific questions about themselves or the operation.

Chair Duncan asked if the Commission had any questions for staff.

Commissioner Aguilar asked how the volume would compare to the Hansen plant off of You Bet Road in Grass Valley.

Mr. Smith did not know the volume that the Hansen plant put out, however the million tons proposed was a maximum and not annual. He stated that they wanted to protect themselves in case they had an emergency job or significant local job to be able to serve it instead of pulling from other resources.

Jessica Hankins with Nevada County Public Works came forward and introduced herself to the Commission. She stated that Hansen pulled out between 300,000-500,000 tons a year.

Commissioner Aguilar stated that this operation would be three times what Hansen pulls out.

Ms. Hankins believed that was at maximum.

Commissioner Aguilar stated that gave him a better idea, as he was familiar with You Bet Road. He asked where other resources would be pulled from.

Ms. Sylvester stated that the EIR identified mines in the Reno area.

Commissioner Aguilar asked if the bike impact would be the same, regardless of if the project was approved.

Planner Shade answered yes, because truck traffic would still occur on Stampede Meadows Road, before turning onto West Hinton Road.

Commissioner Bullock asked at what point the Commission could interject concerns regarding cycling, marking of the road, and signage.

Planner Shade answered that would be a comment on the Draft EIR, and that he could comment anytime between now and July 8, 2019.

Commissioner Bullock stated that he had met with the applicant and was very impressed with their knowledge of the local area, and that they recognized it was a scenic corridor that effects many people. He stated that he was an avid cyclist, and that the road between the bridge area and the
driveway was narrow, not well marked, constantly under construction, had a railroad crossing, and
had lack of line of site. He wanted to discuss the differences of improving the shoulder versus
making a bike lane, requesting the placement of signage to share the road, and increasing safety in
that corridor. He said that once past the driveway toward Stampede, cyclists had to contend with
boats, RV’s, and campers. He added that it was a treacherous trek to get a cyclist from the
Glenshire neighborhood to the dirt road at the end of Stampede. He felt that signage at the
beginning would enhance the safety for everyone in that roadway.

Commissioner Johansen asked if there was any significance to the six year wait between 2013 and
2019.

Planner Shade deferred the question to the applicant.

Mr. Smith answered that when they initially began the project in 2006 and 2008, The Great
Recession hit and they had to consolidate their resources and focus on certain territories. He added
they had to put the project aside and restarted a few years later.

Commissioner Johansen asked about the demand for rock in the area.

Mr. Smith answered that there was a demand, and if not supplied locally it would come in from
Reno. He stated that they try to address how to keep rock local, serve the community, and be better
for the environment.

Commissioner Johansen stated that the trucks would be coming anyway.

Mr. Smith answered yes.

Commissioner Johansen asked if it would be 20 tons per truck, with a million tons.

Mr. Smith answered 20-25 tons, it varied.

Commissioner Johansen stated that was going to be a lot of trucks.

Mr. Smith stated yes, it was a lot of trucks if they were doing a million tons. He reiterated that
there was a cap of 17 million over 30 years, they would not be doing that at one time.

Chair Duncan stated this was a recirculation for her, and that last time it was discussed traffic was
a big issue. She believed that a compromise was developed to facilitate the traffic concerns. She
did not recall biking being a significant concern, adding that sometimes there was a danger in
waiting on projects as new concerns arose which made it more challenging to come to a good
conclusion. She said that the resource was valuable and certainly necessary for infrastructure.

Chair Duncan opened public comment at 10:04 a.m. As no one came forward to speak she closed
public comment at 10:04 a.m.

Commissioner Bullock asked for the difference between a bikeway and a bike lane, as well as the
difference between signage and lane delineation in a roadway as proposed.
Planner Shade stated that the project proposed a Class 3, which would have a widened area to the right of the fog lane. She added that this was not a Class 1, in which it would be separated. She asked if that would be one of Commissioner Bullock’s suggestions.

Commissioner Bullock stated he did not think that was feasible, he wanted to know if the roadway was going to be widened and marked.

Planner Shade answered yes, she clarified that it would be where feasible due to a small area of wetlands as well as topographic constraints.

Commissioner Bullock stated that he believed signage went a long way, such as Share the Road and the California 3 foot separation mandate. He would like to see a couple signs placed in the area of the westbound onramp to increase safety, and possibly where the trucks exit Hinton Road.

Commissioner Aguilar agreed with Commissioner Bullock, and wondered how the environmental impact would change with the signage, and would it make it less than significant.

Chair Duncan stated that some people read signs while others did not.

**Motion by Commissioner Bullock** to direct planning staff to respond in writing to all comments generated through this public hearing and those generated through the close of the required review period (July 8, 2019); and prepare the Final Environmental Impact Report. **Second by Commissioner Johansen. Motion carried on a roll call vote 4/0. (Commissioner Coleman-Hunt was absent.)**

Chair Duncan called for a break at 10:09 a.m., allowing staff time to set up for the next presentation, and resumed the meeting at 10:14 a.m.

**PLN17-0097; U13-003; EIS13-002:** An application for a new Use Permit to amend the expired Comprehensive Master Plan (U99-004) which was approved through the adoption of a Use Permit on June 28, 2001 for the Hobart Mills Industrial Park. The application proposes to bring existing unpermitted uses into compliance with the Nevada County Land Use and Development Code and General Plan as well as to amend the expired Comprehensive Master Plan (CMP). In addition, the Use Permit would recognize the location of the existing unpermitted land uses within the subject parcels established Zoning District Boundaries and CMP delineated project areas, including Assessor Parcel Numbers (APNs) 016-540-003, 016-540-004, 016-540-008 and 016-540-009. Current permitted uses include an approximately 3-acre seasonal topsoil and bark mulch recycling operation which is located within the 22-acre M1 SP Zoning District portion of the subject parcel that is east of Hobart Mills Road, which was approved by Use Permit U99-004. **PROJECT LOCATION:** The subject parcels are located at 14849 State Highway 89, 14824 Old Highway 89, 14824 Old Highway 89, and 14996 Old Highway 89. The subject approximately 133-acre parcels are further located east of the intersection of Highway 89 and Fibreboard Road, approximately four miles north of the Town of Truckee in Unincorporated Eastern Nevada County. **ASSessor'S PARCEL NUMBERS:** 016-540-003, 016-540-004, 016-540-008, 016-540-009. **RECOMMENDED ENVIRONMENTAL DETERMINATION:** Recommend approval of a Mitigated Negative Declaration (EIS13-002). **RECOMMENDED PROJECT ACTION:** Recommend approval of the proposed Use Permit (U13-003). **PLANNER:** Matt Kelley, Senior Planner.

Senior Planner Matt Kelley introduced himself and the applicants to the Commission.
Chair Duncan stated that the Commissioners screens were blank, however as the project could be seen on the presentation screen they could continue.

Planner Kelley continued his presentation and discussed the location of the project site, zoning, general plan designation, and the history of the project site. He discussed certain elements that had not been constructed, including a concrete batch plant and several above ground water storage tanks in the Open Space zoning district. He stated that the applicant had received two 2 year Extensions of Time which extended the time of the Use Permit to July 10, 2008, rendering the Comprehensive Master Plan and any entitlements, except for the top soil facility, null and void after that date. He discussed unpermitted operations started on the property after the approval of the 1999 Use Permit, including seasonal firewood biomass material storage and processing, contractor equipment storage yards, and a seasonal aggregate and asphalt processing and recycling facility. He went on to describe the current proposal to amend and update the expired Comprehensive Master Plan, bringing existing unpermitted uses into compliance, recognize the location of the existing unpermitted land uses within the subject parcels, establish Zoning District Boundaries and CMP delineated project areas, and proposed changes. He indicated on the site plan were the various businesses and landmarks were, showed photographs of existing conditions and facilities, and discussed aesthetics. He reviewed the updated traffic study and Conditions of Approval pertinent to the road and driveways. He discussed water quality, storm water permits, hazardous materials, noise, and zoning and general plan consistency. He stated that typically the construction of above ground water tanks would not be permitted in the Open Space district, however because of the Comprehensive Master Plan, staff was recommending that it be approved as part of the project. He discussed environmental review, in which a California Environmental Quality Act Initial Study and Mitigated Negative Declaration were circulated, public review, impacts that were identified, mitigation measures, and agency comments. He discussed public comment that had been received, amendments to the Conditions of Approval, and a Staff Memorandum. He ended his presentation with Staff Recommendations.

Chair Duncan asked for questions of staff, and mentioned that the Staff Memo had the new language for the actions to be taken. She said that she had been emailed the memo at 8:00 p.m. the previous evening, and believed that it was well addressed and made for better actions.

Project Representative Tom Murphy introduced himself to Commission and thanked staff for their hard work on the project and the Commissioners for coming to Truckee to hear the project. He stated that he had sat on the Town of Truckee Commission for more than 6 years, and he appreciated the civic service that they provided. He introduced Applicant Al Pombo, Project Manager Bree Waters, and Land Use Attorney Greg Gatto.

Applicant Al Pombo came forward and introduced himself to the Commission. He stated he was a former resident of Truckee, and a current resident of Sierraville. He gave a history of Hobart Mills, beginning with Fibreboard Corporation when the mill was in downtown Truckee, the movement of material from that site to Hobart Mills, the piling up of rock for which they rented a crusher to recycle the material, and their construction company which was generating spoils of concrete, asphalt, and other material. He explained that eventually other contractors began participating in the program, and that their goal was to recycle as much material as possible from job sites. He added that no mining was being done, and that everything that came in was converted into a useable product for construction sites.
Mr. Murphy began a presentation showing historical uses, a zoning map showing the surrounding Forest Service land and Open Space, historical landmarks and trailhead, historical photos, and photographs of the current site and uses. He added that much of the wood being processed at the biomass processing center was claimed from forest fires, preventing it from becoming fuel for future fires. He showed photographs of a single family home currently within the Open Space district, and used it as an example to show that the proposed water tank would be well screened. He also showed a map of the existing leach fields currently installed in relation to the proposed water tank sites, as well as photographs to show screening. He stated that they did not have many neighbors except for Timber Trails R.V Park and a Forest Service Work Center, which were about a mile away. He presented additional pictures to illustrate screening and the density of forest growth from various aspects of the property, and offered to show scenic corridor videos if it was the Commission's desire. He added that the public would benefit as the uses were a needed community resource, as well as a part of the County and region's economic engine. He noted that the aggregate recycling operation provided the County with an average of $151,000 a year in sales tax revenue, while also providing jobs. Further public benefits included the recycling of construction waste and biomass, reduced vehicle trips, fuel consumption, and emissions due to close proximity to the area's population, reclaimed and recycled material resources, and fire suppression resources that currently do not exist in the area. He desired to discuss the Condition of Approval regarding landscaping, and invited Attorney Greg Gatto to speak.

Land Use Attorney Greg Gatto introduced himself to the Commission and expressed his gratefulness to staff in providing timely and thoughtful responses to their questions and concerns. He said that one outstanding item they wished to discuss was Condition of Approval A10 and the landscape plans. He stated that timely commencement of construction of the fire suppression water tank was critical to have in operation for the 2020 fire season. He said that staff had done a great job working with them on the Conditions to insure that they could get started as soon as the Use Permit became effective. He read Condition of Approval A10, and requested that it be revised so that the final landscape plans were submitted and approved prior to final. He stated that Mr. Murphy had shown that the site was well screened with mature vegetation and topography, and clarified that no landscaping was proposed for the water tank site. The applicant was proposing to install landscaping as shown on the preliminary landscape plans that had been submitted as part of the Master Plan, however they were requesting additional time to provide the details necessary for a final landscape plan and stamped plans while the construction of the water tank commenced. Those final plans would be submitted prior to final of the building permit. He added that he had a discussion with Director Foss that morning, who had asked him to present that to the Commission. He said that was the only remaining concern, and that staff had done a great job of responding to their questions and comments for clarification.

Director Foss stated that staff was okay with the change of timing for Condition A10, changing it to prior to final of the building permit for the 550,000 gallon water tank, the applicant shall submit the final landscape plan.

Chair Duncan verified that would be incorporated in the page 11 of today’s actions. She then asked for any further questions.

Commissioner Aguilar stated he was fine with the change, and asked why it was important to the applicant.
Director Foss answered that he believed it would take a little more time to prepare the final landscaping plan, and that the applicant would like to get started as soon as possible on the tanks.

Commissioner Aguilar verified it was a timing issue.

Director Foss stated yes.

Chair Duncan stated that she remembered when the project first came forward, the Commission at the time had been very excited about the project as it had public and community benefits. She said there had been a great deal of discussion about the visibility of the water tank, however it now appeared to be well below the trees. She asked if the earth tone color was because of design guidelines.

Planner Kelley answered yes, part of the eastern Nevada County design guidelines do discuss earth tones. Staff was providing guidance as the submitted building permit for the water tank did not show color.

Chair Duncan said that in the years when the applicant was unable to move forward, more regulations and expenses had incurred. She said that she was happy to see the applicant here as it had been on their timeline for a long time.

Commissioner Johansen asked how much the landscaping added to the cost of the project.

Director Foss deferred the question to the applicant.

Project Manager Bree Waters answered that the landscaping was minimal and a minimal cost. Regarding the timing for construction, she said that they needed to begin as soon as the 10 day appeal period was over, otherwise it would not happen that season.

Commissioner Johansen asked if the landscaping was holding up the project, and if they were happy with it.

Ms. Waters answered that they were fine with it, stating that they needed to get the landscape architect on board with the plans. She said that if they had to wait for the landscape plans to be reviewed and finalized it would push them out another 6 weeks, and the water tank would not be built this season.

Mr. Pombo stated that if they do not get the structure built soon, there wouldn’t be high enough temperatures to cure the epoxy.

Commissioner Bullock asked the applicant if they would be able to close out the building permits as outlined by staff in Condition B7.

Chair Duncan asked who Commissioner Bullock was directing the question to.

Commissioner Bullock answered whoever was able to answer. He wanted to make sure that Condition worked for the applicant.
Mr. Gatto asked staff to provide a list of outstanding items and potential fees that may be needed to have the water tank permit issued and close out the permits that had expired. He added that the total outstanding fees were something they were still waiting to hear about.

Commissioner Bullock asked if they were prepared to provide the necessary documents and fees and be able to close those out with the County.

Mr. Gatto answered yes.

Chair Duncan stated that staff was nodding their heads in approval that it could be done. She said that they were promising Mr. Pombo no more surprises.

Chair Duncan opened public comment at 11:09 a.m. As no one came forward to speak she closed public comment at 11:09 a.m.

Chair Duncan verified that all changes had been incorporated.

**Motion by Commissioner Bullock** adopt the proposed Mitigated Negative Declaration (EIS13-002) (Attachment 2) and Mitigation and Monitoring and Reporting Program (Attachment 1) pursuant to Sections 15073.5, 15074 and 15097 of the California Environmental Quality Act Guidelines making Findings A through D: Second by Commissioner Johansen. **Motion carried on a roll call vote 4/0. (Commissioner Coleman-Hunt was absent).**

**Motion by Commissioner Bullock** Approve the proposed Conditional Use permit/Comprehensive Master Plan (U13-003) subject to the attached Conditions of Approval, shown in Attachment 1 as amended by the Memorandum dated June 26, 2019, and at the Public Hearing, making findings A-M pursuant to Sections L-II 5.6.G and 5.17 of the Nevada County Land Use and Development Code: Second by Commissioner Johansen. **Motion carried on a roll call vote 4/0. (Commissioner Coleman-Hunt was absent).**

Chair Duncan noted that there was a 10 day appeal period.

Chair Duncan called for a break at 11:12 a.m. The meeting was called back to order at 1:02 p.m.

**U16-003, MGT16-010 & EIS16-003:** Public hearing to certify the Environmental Impact Report (EIS16-003), approve the Conditional Use Permit (U16-003) and approve the Management Plan (MGT16-010) for the Van Norden Dam Spillway Modification Project. The proposed project includes the modifications to the dam spillway that would lower the spillway to eliminate the risk from a dam failure and remove the ability to impound water. The existing notch of the spillway would be lowered by 4.5 feet. The new spillway would be 48 feet wide and 95.4 feet long with concrete aprons on the upstream and downstream ends of the spillway. The new spillway would include a small incised channel 0.5-foot-deep and 3 feet wide to allow water passage during low flow conditions in the summer and fall months. **LOCATION:** The proposed project is located in the west end of Summit Valley, Nevada County at 10187 Soda Springs Road, Soda Springs CA. APN: 047-440-023. **RECOMMENDED ENVIRONMENTAL DETERMINATION:** Make the Findings for each significant effect; Adopt a Statement of Overriding Considerations; Certify the Final Environmental Impact Report (EIS16-003); Approve the Management Plan (MGT16-010) and Approve the Conditional Use Permit (U16-003). **PLANNER:** Coleen Shade, Senior Planner.
Senior Planner Coleen Shade began her presentation and explained the purpose of the hearing, including the adequacy of the Final EIR for certification, and several actions. She introduced Project Manager Pat Angel with Ascent Environmental, who consulted on the project. She gave a history of the site, beginning with photographs of the area in the 1860s and 1870s and forward. She discussed the project area, project area of influence, project description, and ownership. She discussed the project objectives, including no water impoundment which exceeded state requirements, as the Land Trust did not have water rights, improve safety of the dam, and supporting restoration of hydrology and habitat functions of a high mountain meadow which is the influence area.

Pat Angel, the Project Manager for the EIR, introduced himself to the Commission and began his presentation. He reviewed the timeline and CEQA history, and project alternatives as presented in the EIR. He discussed the resources evaluated in the EIR, such as aesthetics, air quality, archeological, historical, tribal cultural resources, geology, soils, seismology, as well as others. He discussed impacts that were identified which could be mitigated with mitigation measures, most of which were related to biological resources. He reviewed the one impact that was identified as significant and unavoidable, which was the hydrologic functions downstream. He addressed comments that had been received on the EIR, including biological and flooding concerns. He said that an additional analysis had been done for the bridge structures downstream, which concluded that those structures were already impacted by flood conditions, the increase from the project would be negligible and not result in a new impact. Other comments addressed included loss of recreation value, scenic impact, lost opportunity for water storage, and revegetation concerns. He concluded his presentation by discussing the Findings of Facts and Statement of Overriding Considerations.

Planner Shade stated that they had three recommendations, two of which had to be made by the Commission. She finished her presentation with staff’s recommendations.

Chair Duncan asked for questions of staff, and if representatives for the Land Trust were present.

Planner Shade answered yes, representatives were present.

Lorie Carpenter, a Professional Wetland Scientist, Certified Professional Sediment and Erosion Control, and California Certified QSD, QSP, speaking on behalf of the Truckee Donner Land Trust, introduced herself and Executive Director Perry Norris and Stewardship Director John Svahn for TDLT to the Commission. She also introduced Jill Young, a Partner from Paul Hastings Group, Peter Kulchawik of Balance Hydrologics, Jake Hudson of NV5, and Brent Campos of Point Blue to the Commission. She discussed the present state of the dam, the progress of the Management Plan including revegetation, various mitigation measures, and overall consistency with the Nevada County General Plan. She reviewed the history of the dam, its location, and stated that the Land Trust had been ordered by two separate State agencies to alter the dam because it was potentially unsafe and the Land Trust did not own water rights. She showed a video of current conditions of the dam, including a sinkhole which formed which undermined the dam. She talked about the project, including construction and disturbance areas, staging, storage, ingress and egress, stating that work would only be done in the concrete area. She stated that the project was not a reservoir, lake, or mudflat, it was living system and was adjacent to land already accepted as-is by the United States Forest Service. She said typically Counties did not impose mitigation measures on federally owned land, or require applicants to get federal permission to conduct off site project mitigation. She discussed a letter from the United States Forest Service to the County
explaining that no mitigation was required on their lands, therefore the mitigation requirement in the Management Plan were only applicable to the area owned by the Land Trust. The Forest Service also owned the Van Norden Meadow and had indicated that they did not need the help of the Land Trust, and that the Land Trust project did not affect the Forest Service project. She went on to discuss soils in the area, and why they were confident that mitigation measures would be effective. She showed pictures demonstrating the success of revegetation, and proposed habitat. Due to late snows, she stated that final avian survey dates would need to be somewhat flexible, and desired that staff work with her team of experts to be able to comply as closely as possible with the Condition, and to develop Conditions that do not tie the construction schedule due to the construction window on the summit being so limited. She stated that she hoped the Commission would support the Concrete Alternative over the Boulder Alternative. She thanked staff and Ascent Environmental for their work on the project.

Chair Duncan asked the Commission if they had any questions.

Commissioner Aguilar asked for clarification that what was happening now was similar to what would happen once the dam was lowered.

Ms. Carpenter answered that it would be the same and explained why.

Commissioner Aguilar asked if the saturation of the soil would be the same in the future as it was now.

Ms. Carpenter answered, showing pictures of the revegetation after a pipe had been opened and the water level lowered to the same level as was proposed in the project. She stated that during that time they had an opportunity to view the effects of lowering the dam and had found that everything worked as modeled.

Chair Duncan asked if the hiking and biking trails in the area were open to equestrians.

Ms. Carpenter answered yes. She also said that the trails were already existing and the area had a lot of public impact. She reiterated her concern about the compressed building timeline and Avian Condition, stating that they planned to delay construction past those dates.

Commissioner Johansen confirmed that the United States Forest Service owned the land being referred to as the area of influence.

Ms. Carpenter said yes.

Commissioner Johansen asked if the Forest Service would resist any mitigation measures, restrictions, or requirements placed on that area.

Ms. Carpenter answered that they were happy with the property as-is and that they were not going to change anything in that area.

Commissioner Johansen asked Planner Shade if she had any input.

Planner Shade stated that concerns that were brought by members of the public during scoping as well as in the draft were post construction concerns of success of the revegetation. She said that in
the Management Plan prepared by the applicant, ongoing monitoring of the revegetation post
correction was included for 3 years. She stated that she had spoken with USFS and there was
some miscommunication that mitigation was being created for their property without discussing it
with them. She said that this was something that was already a part of the Management Plan that
was submitted to the County prior to the transfer of the land to the Forest Service. She stated that
various organizations, including SYRCL, were monitoring the land, and that the County was being
consistent with the Management Plan. It was not considered to be onerous because it was post
correction, therefore it was left in. She said that when she spoke with the author of the letter, he
gained a better understanding of why it was in the EIR.

Commissioner Johansen asked if the Management Plan went with the land.

Planner Shade Coleen answered yes.

Ms. Carpenter stated that it was their understanding that the Management Plan and mitigation
requirement only covered the area owned by the Land Trust.

Planner Shade said that part of the mitigation that came from the Management Plan that was
submitted to the County and used in the Draft EIR looked at post construction monitoring for 3
years, which is why it was left in.

Ms. Carpenter stated they would be monitoring their 6.98 acres for 3 years.

Commissioner Johansen asked if the Forest Service would be monitoring the rest.

Planner Shade believed that SYRCL would continue to monitor, and noted their program manager
in the audience was shaking her head yes.

Chair Duncan asked for further questions. None were forth coming.

Peter Kulchawik of Balance Hydrologics, a Professional Licensed Civil Engineer, introduced
himself to the Commission. He stated that they had been doing a number of different technical
studies over the last seven years, and had compiled a number of different models. He discussed
flooding issues which exist under current conditions, and how the dam modification would affect
some homes and bridges downstream. He reviewed and explained the impacts downstream, stating
that flooding occurred under existing conditions and would continue to occur. The worst case
scenario for the most impacted home, Home Site 1, would be a decrease in freeboard without
affecting living space, a two to three inch increase for bridges during extreme events. He added
that snow and logs also affect flooding.

Chair Duncan asked for any questions.

Commissioner Aguilar asked if the water would come up to the floor joists during the 100 year
flood at the home that would be most impacted.

Mr. Kulchawik answered that they estimated it would go to the crawl space and lap against the
foundation, not the living area.
Commissioner Aguilar asked how many inches the water would increase with the dam removal.

Mr. Kulchawik answered that the model showed that the 100 year water surface elevation would rise 1.4 feet.

Commissioner Aguilar asked how that would affect erosion of the foundation.

Mr. Kulchawik answered that it was a problem under existing conditions, however the water on the sides would not move as swiftly as water going down the center of the channel. He also stated that it was not a question that they had specifically looked at. He said that with a little more water may be a little more power, which would cause a little more erosion. He explained that water in this area was being backed up by a culvert, which slows water.

Commissioner Aguilar asked if the 100 year flood levels were calculated from historic data.

Mr. Kulchawik answered that it was a statistic which happened on average once every 100 years, which was an acceptable level of risk throughout the engineering community.

Commissioner Bullock asked how many times a 100 year event had occurred at Home Site 1 in the last 10 years.

Mr. Kulchawik said that it was hard to say. He stated that the 1997 event varied regionally from a 20 year to a 100 year event. He believed locally it was between a 50 and 100 year event, and towards South Lake Tahoe it was more of a 20 year event. He stated that USGS had a paper on the subject.

Commissioner Bullock asked that regardless of the big snow years they have had, that location had not seen a 100 year event.

Mr. Kulchawik answered that was correct.

Commissioner Aguilar asked for the percentage difference between a 100 year flood and 20 year flood.

Mr. Kulchawik answered that it varied, and had to do with the nature of the hydrology in the watershed. He added that the 50 year event was not equal to half of the 100 year event, the scale did not work that way.

Commissioner Johansen asked if replacing the culvert downstream could be a mitigation measure.

Mr. Kulchawik answered that the culvert was a big opening, but narrow. He answered that the culvert transported water fine, and was not sure that replacing the culvert would make sense.

Commissioner Johansen asked when Van Norden filled up.

Mr. Kulchawik answered that it filled up after large rains in October or November, and remained full all year.
Commissioner Johansen stated that when full, new rain would rush over anyway. He asked why the flow would increase.

Mr. Kulchawik explained why the flow rate would increase.

Commissioner Johansen stated that the lake was already full.

Mr. Kulchawik answered that in its current condition the lake stores much more water.

Commissioner Johansen asked for clarification.

Mr. Kulchawik explained about the 22 inch pipe at the bottom of the dam and the spillway.

Commissioner Bullock stated that he was aware that snow removal in the Donner Summit area made a difference in how water courses behaved, and that snow removed from parking lots and other areas has been cast into the South Yuba, creating a dam effect. He asked if snow would have any impact on flooding for Home Site 1.

Mr. Kulchawik answered that had not been specifically studied. He said that snow fell differently every year, and humans tend to move it around. He said that it was difficult to predict every possible scenario.

Commissioner Bullock asked if anyone in recent memory had witnessed a big snow year or a rain on snow event with incremental snow removal causing problems at Home Site 1.

Mr. Kulchawik answered not that he was aware of.

Chair Duncan invited the next speaker.

Jill Young with the Paul Hastings Law Firm introduced herself to the Commission. She discussed the Boulder Alternative and its impacts, such as increasing the footprint of the dam, extra cost, increase in emissions, import of materials, and larger disturbance area. She added that the Boulder Alternative did not solve the impact of flooding. She asked to clarify that they did not need to do nesting bird impact surveys if they were outside of the windows specified, although they would do some surveys for certain species. They believed that they were being consistent with the intent of the mitigation measures, and that they would not be able to do the full suite of protocol surveys. They asked that the Condition be modified or that they be allowed to work with staff to come up with a practical solution.

Commissioner Aguilar said that one slide showed a difference in the flow between the Boulder Alternative and the Concrete Alternative. He asked what percent the Boulder Alternative would decrease the flow, and stated that while it did not mitigate the flood impact, it did reduce it.

Ms. Young explained why the alternative was included in the document and that it was not the landowner’s responsibility to maintain flood control, it was the responsibility of either government or the builders to not build in the flood zone.

Commissioner Aguilar asked why an alternative was listed.
Ms. Young answered that if the alternative had taken the impact below a level of significance then they would be empowered to require the applicant to do that measure.

Commissioner Aguilar stated it would be legal for them to vote on the alternative.

Ms. Young answered that was correct, however it would prompt the argument that the mitigation was not justified, placing the applicant in a position in which they could contest the project.

Commissioner Aguilar stated he was not sure he agreed with that, and he was interested in the percentage the flow would decrease.

Mr. Kulchawik stated that he did not know the exact percentage, and explained the chart on display. He explained why the Boulder Alternative and Concrete Alternative were different.

Commissioner Aguilar asked if there was a difference in footage with the Boulder Alternative at Home Site 1.

Mr. Kulchawik answered that the flow level at that site would be a little lower, however neither alternative would affect the living space.

Commissioner Bullock clarified that with the Boulder Alternative the meadow ecology would have certain fluctuations, whereas the ecology with the Concrete Alternative would be more stable.

Mr. Kulchawik discussed a study in which that was evaluated.

Commissioner Bullock stated that one could argue that the Concrete Alternative was a better option for the creation of the meadow space and the ecology associated with it.

Mr. Kulchawik said that he could not remember the ecological differences between the Boulder and Concrete Alternative, however he believed they were pretty similar.

Ms. Carpenter stated that they cared most about what happened on a dry year, and that the Concrete Alternative was superior for supporting meadow vegetation. She asked if the Commission had any questions for their geologist and engineer or project biologist.

Chair Duncan asked for the geologist to come and give a brief overview of the sinkhole.

Jake Hudson of NV5 Geotechnical Engineering Firm introduced himself to the Commission. He said that they had designed the spillway for the project, and clarified that the sinkhole was more of a scour hole, similar to Oroville Dam but on a smaller scale. He gave a report on the condition of the apron and spillway, and what had happened this last spring. He said that the Division of Dam Safety had ordered them to fix the problem, and explained how they completed temporary repairs. He reviewed the process of fixing the dam, and explained why replacement was not a consideration.

Chair Duncan asked for any questions.

Commissioner Bullock asked if they had to open the dam up, would they be able to open and close the project within 10 weeks.
Mr. Hudson explained that it wasn’t a matter of if it could be done and more a question of cost.

Chair Duncan asked if it was his professional opinion that something needed to be done to the dam.

Mr. Hudson said absolutely, and that they had been informed by the Division of Dam Safety that they had to do something.

Ms. Carpenter stated CEQA required options, they were unsure if they could get the Boulder Alternative through the Department of Dam Safety, and that the other option was already approved. She reiterated that the Boulder Alternative was more than double the cost, this was not a subdivision or restoration project, and that they were trying to correct an environmental wrong. They did not own the water rights and had been illegally impounding water for years, and that they wanted to leave behind a safe structure in perpetuity. She concluded by stating that they supported Staff’s recommendation for the Concrete Alternative, they had an engineer on board, and that they knew they could complete the project this year.

Chair Duncan opened public comment at 2:27 pm

Norm Sayler, a 65 year resident of Norden-Soda Springs, introduced himself to the Commission. He stated that he believed that the County needed to address the fact that California needed water, and that the dam holds back 6,000 acre feet of water. He stated that the dam had operated fine for 80 years, until PG&E and other agencies decided they no longer wanted to maintain earthen dams. He said that 18 dams were declared unsafe, and that 8 of those had been put back into operation without modification. He believed that the dam could be repaired with the funds from the Land Trusts sale of a thousand acres, and water could be stored for use when needed downstream instead of it running to the ocean. He stated that there were many flaws in what had been discussed today, and that there was no culvert near Home Site 1 to back up water. He said that particular home was flooded from water that didn’t come over the dam, rather from water that came from the Royal Gorge parking lot and out of Arrow Creek. He discussed the history of the area, and how waterways and trees in the area had been effected by the lake. He stated that no one had really gone into the town area and asked people what they wanted, and that the most of them wanted the dam in place. He believed that the Commission should turn down the project.

Alexis Ollar, the Executive Director of Mountain Area Preservation, introduced herself to the Commission. She expressed their support of the project and gave a summary of other projects in which they had partnered and advocated with the Land Trust, such as the acquisition of Royal Gorge. She discussed the benefits of the project, including creating climate change resiliency by converting a shallow lake back into a meadow.

Lisa Wallace, the Executive Director of the Truckee River Watershed Council introduced herself to the Commission and expressed their support for the project.

Rachel Hutchinson, the Science Director for the South Yuba River Citizens League (SYRCL), introduced herself to the Commission, and stated that they continued to support the project and the Concrete Alternative.

Ashley Pierce, a PhD in Environmental Scientist with the Headwaters Science Institute introduced herself to the Commission. She said that the lowering of the Van Norden Dam would allow the
surrounding ecosystem to return to its natural state as a sub alpine meadow. She said that California had lost up to 90% of its original wetland areas, and that this particular restoration was a unique and important opportunity for the area. She explained the benefits to the project, such as a meadows ability to filter, retain floodwaters, release water during times of drought, and allow bird species to return. Due to a number of ecological functions, they felt that every effort should be made to protect Van Norden and restore it to its wetland function.

Markley Bavinger with the Trust for Public Land introduced herself to the Commission. She stated that the Trust for Public Land has worked with the Truckee Donner Land Trust on many conservation projects, and that the Van Norden Project consistently ranks as a top project within the United States. She expressed her support for the Concrete Alternative, and she believed that because the spillway was compromised it increased the urgency of an approval.

Steve Frisch, the President of the Sierra Business Council introduced himself to the Commission. He said that they had been long time partners of the Land Trust and expressed their support of the project as proposed. He said it was remarkable to see what has happened at the Summit with the wetland restoration, and it was an important asset to the community for climate resilience.

Chair Duncan closed public comment at 2:39 p.m., and asked if staff had any comments.

Planner Shade answered not at this time.

Mr. Angel stated that he was able to make contact with the biologist regarding the bird mitigation measures, she identified that as long as two surveys were done immediately, which were appropriate due to the late snow conditions, the issues with the species would be addressed. He stated that the mitigation could be flexible to meet the scheduling needs of the Land Trust and still protect the species of concern.

Chair Duncan asked for questions from the Commission.

Commissioner Aguilar wanted to clarify that if an alternative reduced an impact, it would be preferable.

Chair Duncan stated that Commissioner Aguilar wanted clarification on the Boulder versus Concrete Alternative.

Commissioner Aguilar said he believed that Ms. Young had said that if an alternative did not bring impacts to a certain level it was not necessarily legal to vote on, and that this process had a certain level of subjectivity to this process.

Mr. Angel said that the key aspect under CEQA was to look at alternatives that avoid or substantially reduce any identified impacts of the project, in this case a flooding impact. He said that while the Boulder Alternative did reduce it, it did not avoid, adding that it did not substantially avoid the impact either. He said that the Boulder and Concrete Alternatives were relatively similar, and that the Boulder Alternative would have greater air quality impacts, more material would need to be removed, and that construction would be longer. The Findings did not identify an avoidance.

Commissioner Aguilar stated he understood, and asked that lowering the impact by half was not significant.
Director Foss answered that any increase in flooding was looked at as a significant impact by staff. While Commissioner Aguilar was correct, the Boulder Alternative did reduce the impact, it was still significant. Because both alternatives had a flooding impact, the Commission was under less of an obligation to look at both alternatives, however it was within their purview.

Commissioner Aguilar verified that they were voting to approve the CEQA document.

Commissioner Bullock asked to clarify that they were talking about 3/10 of an inch between the alternatives.

Director Foss stated it would be 7 inches.

Commissioner Johansen asked how much water the meadow would retain and control.

Chair Duncan invited Ms. Hutchinson to answer the question.

Ms. Hutchinson answered that the amount of water that would be retained in the meadow had not yet been modeled, however it was something they were going to work on within the next few years. She did say that conceptually it was correct, more water would be available to spread on the flood plain and percolate into groundwater after the meadow was restored. She added that it could potentially change how water moved through the South Yuba River.

Chair Duncan if that was her experience with the Loney Meadows Restoration.

Ms. Hutchison answered yes, and briefly discussed that project.

Commissioner Johansen asked County Council if someone could impound water without having the water rights.

Deputy County Counsel Rhetta VanderPloeg answered not legally.

Commissioner Aguilar asked if it was correct that staff had a letter from the Federal Government stating they liked the meadow the way it was.

Planner Shade clarified that the author of the letter was concerned that the County was placing new mitigation on their land without conversing with them. She stated that SYRCL was currently working with the Forest Service to monitor the meadow, and once it was clarified that staff was not asking for anything additional, the US Forest Service representative was fine.

Commissioner Bullock asked for the difference in cfs between the Boulder and Concrete Alternatives at Home Site 1.

Director Foss stated it was 2600 to 2450.

Commissioner Bullock asked if they were calling that 8 inches or so at that location.

Mr. Angel answered that under the 100 year condition it was about a 200 cfs difference between the two alternatives, and under the 200 year condition it was estimated to be a 300 cfs difference.
Commissioner Hardy asked that neither of those reach the habitable space of the home, only the free space under the house.

Mr. Angel nodded that was correct.

Chair Duncan asked for clarification for Mr. Saylers comments that flooding came from another source for that site.

Planner Shade asked if Mr. Kulchawik wanted to answer that question.

Mr. Kulchawik stated he did not know where Arrow Creek was, perhaps he knew it by a different name. He stated that the watershed area between the spillway and the home site was pretty minimal, he was unaware of any major tributaries in that square mile. He added that when it rains on top of a lot of snow, channels can form and appear big and nasty, however he was unaware of any major tributaries in that area.

Commissioner Aguilar asked about the other two homes that were in the flood plain and the impacts to them.

Mr. Kulchawik explained that the impacts decrease in the upstream direction, the second house upstream had some impact while the third house had no impact.

Commissioner Aguilar asked if the water touched the second house.

Mr. Kulchawik answered it was similar to Home Site 1 in that the living space was high, water would touch the foundation but not the habitable space.

Chair Duncan asked for further questions or clarification.

Commissioner Bullock commented that he believed the spillway modification with the Concrete Alternative was the right thing to do from an environmental perspective, that it had the support of the community, and that additional funding that would be spent on the Boulder Alternative would remove money that could be used to protect open space, which is what the community and County were working toward. He briefly discussed the effects on the structures downstream, and reiterated his support of the Concrete Alternative.

Chair Duncan asked if anyone else had comments to make.

Commissioner Aguilar complimented the presentation. He said that he was not unsympathetic to Mr. Saylers concerns, however it was a cause that needed to be championed before it came before the Commission. He added that he appreciated the detail in which the project was presented. Regarding the houses downstream, he said that they would be effected regardless of if they picked the Boulder Alternative or not.

**Motion by Commissioner Bullock to Certify the Final Environmental Impact Report (EIS16-003) (Attachment 1) subject to the recommended Mitigation Measures found in the Van Norden Dam Spillway Modification Project Mitigation Monitoring and Reporting Program (Attachment 2), and adoption of the Findings of Fact and Statement of Overriding Considerations for the Van**
Norden Dam Spillway Modification Project (Attachment 4) as amended at the Public Hearing; Second by Commissioner Johansen. Motion carried on a roll call vote 4/0. (Commissioner Coleman-Hunt was absent).

Motion by Commissioner Bullock to Approve Management Plan (MGT16-010), to address construction disturbance to a watercourse, wetland and riparian area in order to modify the dam while protecting soil, water quality, and air quality (Attachment 5), which have been incorporated into the EIR for the Conditional Use Permit, making the Findings A-B pursuant to LUDC Section L-II4.3.3.C and Section L-II 4.3.17. Second by Commissioner Johansen. Motion carried on a roll call vote 4/0. (Commissioner Coleman-Hunt was absent).

Motion by Commissioner Bullock to Approve the Conditional Use Permit (U16-003) with Conditions of Approval and the Mitigation Monitoring and Reporting Plan (Attachment 3) in compliance with Nevada County’s Land Use and Development Code L-II 4.3.10.C.4. Floodplains, all subject to the attached Mitigation Measures and Conditions of Approval shown in Attachment 3 making Findings A through L pursuant to LUDC Section L-II 5.5.2.C. and Floodplain Management Regulations Section L-XII 1.4.C requiring a Use Permit: Second by Commissioner Johansen. Motion carried on a roll call vote 4/0. (Commissioner Coleman-Hunt was absent).

Chair Duncan noted there was a 10 day appeal period.

Discussion ensued regarding upcoming Commission meetings and ongoing project statuses.

Motion by Commissioner Johansen; second by Commissioner Bullock to adjourn. Motion carried on voice vote 4/0.

There being no further business to come before the Commission, the meeting was adjourned at 2:59 p.m. to the next meeting tentatively scheduled for July 11, 2019, in the Board of Supervisors Chambers, 950 Maidu Avenue, Nevada City.

Passed and accepted this 22 day of August, 2019.

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Brian Foss (sp)
Brian Foss, Ex-Officio Secretary