



Posted: Wednesday, November 09, 2011

NOTICE AND CALL OF A SPECIAL MEETING OF THE TRINIDAD CITY COUNCIL

The Trinidad City Council will hold a Special Meeting on
THURSDAY, NOVEMBER 10, 2011 at 7:00 PM
in the Town Hall at 409 Trinity Street

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- I. **CALL TO ORDER/ROLL CALL**
 - II. **PLEDGE OF ALLEGIANCE**
 - III. **CLOSED SESSION – *No closed session scheduled.***
 - IV. **APPROVAL OF AGENDA**
 - V. **APPROVAL OF MINUTES**
 - No Minutes are being presented at this meeting
 - VI. **ITEMS FROM THE FLOOR**
(Three (3) minute limit per Speaker unless Council approves request for extended time.)
 - VII. **CONSENT AGENDA**
There are no Consent Calendar Agenda items for this meeting
 - X. **DISCUSSION/ACTION AGENDA ITEMS**
 1. Discussion/Decision to consider option to appeal a recent decision by the Humboldt County Planning Commission to approve the Moss Subdivision on Fox Farm Road in Westhaven.
 - XI. **COUNCIL, STAFF, or PUBLIC REQUESTS FOR FUTURE AGENDA ITEMS**
 - XII. **ADJOURNMENT**

Moss Subdivision Special City Council meeting Staff report November 9, 2011

As you are aware, the County Planning Commission approved the Moss subdivision, located in Luffenholtz Creek, on Thursday November 3, 2011 by a 4-2 vote. For the most part, the County did a commendable job in addressing the City's concerns regarding the project and resulting impacts to the City's water supply. However, there are still some items of concern that may warrant an appeal of this project to the Board of Supervisors. Without a lot of time to prepare, this staff report is intended to highlight what has and has not been addressed and what the issues of concern still are.

In addition, attached to this staff report are some excerpts from the Environmental Impact Report (EIR) and staff reports and supplemental information that will help you in the review and consideration of these issues. You may not need to read through all the attachments if you have been following this project over the last couple of years. Also, you should still have a copy of the Final Supplemental EIR from your August meeting this year. The Final SEIR consists of the comments on the Draft SEIR and the County's responses. At the end of this staff report I have included links to the County's website where these documents can be viewed in their entirety. Included in the attachments are:

- Executive summary from the Draft Supplemental EIR (p 6-14)
- Water supply analysis from the DSEIR (p 15-22)
- Cumulative impact analysis from the DSEIR (p 23-30)
- Appendix N of the DSEIR, which is the water supply study done by LACO (p 31-41)
- Supplemental Information No. 2, which includes information submitted to the County since the last Planning Commission Hearing in September (p 42-54)
- Supplemental Information No. 3, which includes LACO's (the consultant to the County) response to issues raised at the last hearing (p 55-69)
- Notes from the most recent hearing written by Trinidad Planning Commission Chair Richard Johnson, who attended the November 3 meeting (p 70-71)

The appeal period runs until Monday November 14, 2011 at 5:00 pm. The appeal fee is \$2,322.65, and the project has gone through a long review process, so it is not a decision to be made lightly. I do not have a strong recommendation one way or the other as to whether the City should file an appeal, but I do have some concerns about the project still. If the City wants to ensure the highest level of protection for its water supply as possible, then some additional mitigation is warranted. Below I have listed the mitigation measures (or impact reduction measures) that have been included as conditions of approval of this project that are important for protecting the City's water supply. The underlines indicate provisions that were added in response to the City's or others' concerns. In particular, the last mitigation measure that was added at the most recent hearing goes a long way toward preventing clearing and conversion of the land from forest and native vegetation with preserve the natural hydrology. The County also included a complex set of mitigations (EIR MM 2 and 3) that restrict pumping of creek water during the dry season and require adequate storage to get the residences through that dry season. All the studies and mitigations that were required for this project set a strong precedent for a high level of scrutiny for any future subdivisions in the area.

The project, as mitigated, is close to doing a very good job of addressing the City's concerns regarding its water supply. However, there are still a few holes that could be closed to better protect Luffenholtz Creek water. One of the main reasons for concern is that the water analysis shows that there is very little margin for error in a dry year. Luffenholtz Creek has been 95% allocated for the driest year used in the analysis. However, that does not necessarily reflect the driest year possible, and climate change adds to future uncertainties. Therefore the risk is fairly high. Issues for consideration are as follows:

1. Dates for restricting dry season pumping from Luffenholtz Creek. Through most of the EIR process, a dry season pumping restriction between August 1st and November 15th has been proposed. However, at the last hearing, as recommended in Supplemental No. 3, those dates were changed to July 1st to October 15th. As stated in the supplement, this was based on a letter from the Dept. of Fish and Game. The supplement states that: "*A review of rainfall records in Trinidad indicates that the period of July 1 to October 15 most closely matches the actual average rainfall minimums.*" This statement is unsupported by evidence, and stream flows necessarily lag behind rainfall as the first rain is soaked up by the dry soil. The October 15th date is a concern. Considering just this year, last winter was an above average water year, with rainfall very late into the spring. There was also an early rainstorm, but Luffenholtz was still pretty dry on October 15th. It is likely that future residents on the Moss parcel will start pumping at their maximum allowable rate as soon as October 15th passes in order to fill their tanks. It is my understanding that the riparian water rights of the Moss parcels would take precedence over the City's appropriated rights, even though the City has been there longer. Therefore, the City should consider an appeal that asks for the November 15th date to be reinstated.
2. Enforcement of pumping restrictions and storage requirements. There are some oversight provisions in these mitigation measures, including annual reporting requirements and recordation on the property deeds. However, the City has stated concerns about the County's ability to realistically enforce these provisions. What is going to stop future owners from adding more pumps or storage in the future that are not metered? Previously, the City asked for an easement to access the property to do onsite inspections; this request was not included in the final mitigation. In addition, technology was discussed that would allow remote monitoring of the pumps and / or tanks. Similar technology is used to monitor propane gas tank levels in remote areas. This would also be similar to the new PG&E smart meters that are being installed around the County. The City should consider an appeal that requests an access easement for inspection and requires meters that allow remote monitoring of the pumping.
3. Enforcement of the vegetation clearing restriction. This is a very important mitigation measure for protecting the City's water supply in the future. Restricting land conversion maintains the natural hydrologic cycle and conditions. Forests retain and store more water that is then released during the dry season than pasture or other vegetation. In addition, it prevents future owners from landscaping or farming large areas of their lot that would need irrigation during the dry season (the parcels are zoned for agriculture). However, there is no practical ability to enforce this provision as it is currently written. It will be added as a note on the development plans. However, this will not show up on the title or the deed for the property, so future owners will not even be aware of this requirement. The City should consider an appeal that requests that this requirement be recorded on the deed for each property as was required for the pumping restrictions.

IS MM 5 Driveways, parking areas, and other impermeable surfaces shall be designed to dissipate runoff uniformly; particularly for runoff directed toward steep slopes or creeks. Such runoff shall not be to flow or pond in identified septic system leachfields.

IS MM 9 Streamside Management Areas of 100 feet from both sides of the stream transition lines of the North Fork of Luffenholtz and Deadman Creek shall be established, and erosion control and other measures for development within these areas shall include the following:

- a. During construction, land clearing and vegetation removal will be minimized.
- b. Construction sites will be planted with native or naturalized vegetation and mulched with natural or chemical stabilizers to aid in erosion control and insure re-vegetation.
- c. Long slopes will be minimized to increase infiltration and reduce water velocities down cut slopes by such techniques as soil roughing, serrated cuts, selective grading, shaping, benching, and berm construction.
- d. Concentrated runoff will be controlled by the construction and continued maintenance of culverts, conduits, nonerodible channels, diversions dikes, interceptor ditches, slope drains or appropriate mechanisms. Concentrated runoff will be carried to the nearest drainage course. Energy dissipaters may be installed to prevent erosion at the point of discharge where discharge is to natural ground or channels.
- e. Runoff shall be controlled to prevent erosion by onsite or offsite methods. Onsite methods include, but are not limited to, the use of infiltration basins, percolation pits, or trenches. Onsite methods are not suitable where high groundwater or slope stability problems would inhibit or be aggravated by onsite retention or where retention will provide no benefits for groundwater recharge or erosion control. Offsite methods include detention or dispersal of runoff over non-erodible vegetated surfaces where it would not contribute to downstream erosion or flooding.
- f. Disposal of silt, organic, and earthen material from sediment basins and excess material from construction will be disposed of out of the Streamside Management Area to comply with California DFG and Regional Water Quality Control Board.
- g. No pesticides or herbicides shall be used within the Streamside Management Areas. Winter operations (generally October 15 through April 15) shall employ the following special considerations:
- h. Slopes will be temporarily stabilized by stage seeding and/or planting of fast germinating seeds such as barely or rye grass; and mulched with protective coverings such as natural or chemical stabilizations.
- i. Runoff from the site will be temporarily detained or filtered by berms, vegetated filter strips, and/or catch basins to prevent the escape of sediment from the site. Drainage controls are to be maintained as long as necessary to prevent erosion throughout construction.

IS MM 10 A complete hydraulic report and drainage plan shall be submitted for approval by the Department of Public Works. This will require the construction of drainage facilities adjacent to and across Adams Fox Farm Road. The applicant shall dedicate drainage release easements to the County of Humboldt for all cross drains as directed by the Department of Public Works.

EIR MM 2 The developer/applicant shall provide dry season water storage facilities for each residence, including secondary residential units, if any. Based on the current state of knowledge regarding dry season flows in the two affected streams and the life-cycle of non-anadromous

populations of coastal cutthroat trout, the risk to the species through potential de-watering of the streams at or below the subject site is sufficient to prohibit any water diversions during the dry season. As such, each residence shall provide water storage sufficient for a minimum of 107 days of independent operation from ~~August 1st through November 15th~~ July 1st through October 15th of each year. Each residence, or secondary residential unit, will be assumed to require a minimum of 400 gallons per day (pursuant to the Humboldt County Framework Plan §2554.9A), to a dry season total storage requirement of 42,800 gallons. ~~Each parcel shall have recorded against it an agreement with the County, and enforceable by the County, requiring the installation of a water storage facility capable of meeting the needs described herein.~~ Residential water storage quantities shall be above and beyond the 2,500 gallons required by Cal Fire for developments within the State Responsibility Area (SRA) for fire protection. Storage for both uses, however, may be provided for within one storage unit. ~~Permanent flow meters shall be installed at the intake to each storage tank.~~

EIR MM 3 To avoid excess short-term withdrawals during the periods in which the tanks required by 2009 Mitigation Measure No. 2 are being filled, pumps shall be sized or otherwise regulated to draw a maximum of two gallons per minute on Deadman Creek and a combined maximum of five gallons per minute on the North Fork of Luffenholtz Creek. Permanent flow meters shall be installed at the intake to each storage tank. Such flow meters shall record flows no less than once per day. The property owner shall submit daily records or flows to the Humboldt County Department of Community Development and Services no less often than once per year. Deed restrictions or similar instruments shall be recorded for each parcel at the time of recordation of the Final Parcel Map or Parcel Map Waiver describing the restrictions to dry season withdrawal from surface streams and the requirements to provide dry season water storage.

EIR MM 4 Prior to approving additional discretionary approvals for development in the vicinity of the subject site, the County of Humboldt shall identify all parcels within the Luffenholtz Creek Critical Water Supply Area (CWSA) and adopt a policy to require that any proposed future development of residential units within this area shall demonstrate that such development will not reduce in-streams water flows below that necessary for maintaining anticipated demand for the Trinidad Water System and minimum pass-by flows to maintain habitat value in the stream for fish and other species.

New MM The portions of each lot where clearing of vegetation may occur shall be restricted to three acres which include the sites of the proposed building footprints, driveways, and septic systems / leach fields, plus 100 feet from each residence as may be required per fire safe regulations. The remainder of each lot shall be maintained with the existing mature trees, wetlands and riparian and understory vegetation, and a notation requiring preservation of the trees in this remainder area of each lot shall appear on the development plan.

Draft Supplemental EIR available in its entirety at: <http://co.humboldt.ca.us/planning/moss-draft/>

Staff reports and supplemental information from both the November 3rd hearing and the September 1st hearing is available at:

<http://co.humboldt.ca.us/planning/commission/default.asp?pg=notice.htm>

EXECUTIVE SUMMARY

Introduction and Description of Document

The California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (CEQA) and the associated State CEQA Guidelines (California Code of Regulations Section 15000 et seq.) require public agencies to analyze the potential effects of a proposed project to a wide variety of environmental and related factors prior to approval. If all potential effects are determined to be “less than significant,” a Negative Declaration is prepared. If any potential effects are determined to be “potentially significant”, then an Environmental Impact Report (EIR) is prepared. The purpose of an EIR is to disclose the anticipated effects of the project and any available alternatives or “mitigation measures” which would reduce, eliminate, or avoid the anticipated effect.

CEQA compliance is intended to be an open and public process with participation from public agencies, private individuals, and organizations. Participants are invited to provide input into the analysis of environmental effects, the determination of the level of significance of those effects and the design of mitigation measures. Where a project is expected to have significant effects, even after all available mitigation measures are adopted, the Lead Agency preparing an EIR has the responsibility to determine whether the advantages of the project outweigh the potential harm to the natural and human environment.

This EIR addresses the potential impacts of the Moss Parcel Map Subdivision, a proposed division of land under consideration by the County of Humboldt. On August 16, 1995, Mr. Moss, the property owner, submitted an application to divide approximately 94 acres of forested land east of the City of Trinidad into four parcels. As described in more detail below, Humboldt County conducted an Initial Study (Appendix A) of the proposed project and concluded that the project would have no potentially significant effects which could not be mitigated. The Humboldt County Planning Commission approved the project on November 20, 1997, and adopted a Negative Declaration. The Board of Supervisors considered an appeal of the Planning Commission’s approval on December 2, 1997, and upheld the Planning Commission’s findings. A Notice of Determination (Appendix C) was filed with the County Clerk on January 29, 1998, indicating that a Negative Declaration had been approved. Following litigation (described in greater detail below), on April 8, 2003, the Court of Appeal of California, First Appellate District, Division Three, determined that the Tentative Map approval had expired on November 20, 1999 (Appendix G). The Appellate Court further found that the request for a stay of time that Mr. Moss had submitted to the County of Humboldt on August 8, 2000, was not timely and could not be used to extend the life of the map.

On September 23, 2003, Mr. Moss submitted a new application to Humboldt County for permission to carry out a project identical to the one previously approved. A second Initial Study (Appendix H) was conducted following the new application and affirmed by the Humboldt County Board of Supervisors on August 16, 2005 (Appendix I). The California First Appellate

District Court of Appeal (Division Three) issued a ruling on May 7, 2008 (Appendix J), declaring that the original (1997) environmental analysis continues to be valid for the project except for those limited areas where the second (2005) Initial Study demonstrated that circumstances had changed between the two analyses. The Court of Appeal further determined that two of the potentially significant effects identified in the 2005 Initial Study meet this test and merit additional analysis. The concluding decision of the 2008 ruling of the Court of Appeal reads:

“The judgment of the trial court denying Moss’s petition for writ of mandate and requiring preparation of a new EIR with respect to issues addressed in Resolution No. 05-56 is reversed in part. The County may require a supplemental review under section 21166 only with respect to the project’s environmental impacts on (1) water supply to the City of Trinidad, and (2) the population of coastal cutthroat trout. In all other respects, the judgment is affirmed. Each side shall bear its own costs on appeal.”

The County of Humboldt has relied on three sections of the CEQA Guidelines to determine the appropriate type of environmental document to prepare for the current review of the Moss Parcel Map Subdivision in light of the Court of Appeals ruling. *CEQA Guidelines*, Section 15161 defines a “Project EIR” as:

“The most common type of EIR examines the environmental impacts of a specific development project. This type of EIR should focus primarily on the changes in the environment that would result from the development project. The EIR shall examine all phases of the project including planning, construction, and operation.”

CEQA Guidelines Section 15162 and Section 15163 together describe required and permitted Lead Agency actions to be taken when, as in this case, it is determined that circumstances of a project have changed following the approval of an environmental document. Section 15162 requires the preparation of a “Subsequent EIR or Negative Declaration” when:

“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”

CEQA Guidelines Section 15163 permits the lead agency to prepare a supplement to an EIR if:

*“(1) Any of the conditions described in Section 15162 would require the preparation of a subsequent EIR, and
(2) Only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation”*

As such, Humboldt County has determined that the appropriate environmental document for the current review of the Moss Parcel Map Subdivision is a project level Supplemental EIR (SEIR). This EIR is written to update the findings of the 1997 Initial Study and Negative Declaration to

account for those potentially significant effects which were identified in the 2005 Initial Study and which were accepted by the Court of Appeals in its 2008 ruling as addressing changed circumstances.

On April 7, 2009, Humboldt County circulated a Notice of Preparation (NOP) (Appendix L) indicating that an EIR would be prepared for the project and soliciting additional comment. The 30-day comment period for the NOP ended on May 7, 2009. Individual agency scoping meetings were held on April 28, 2009, with the City of Trinidad and on May 1, 2009, with the California Department of Fish and Game (DFG). Written responses to the NOP were received from: The State Clearinghouse, the City of Trinidad, DFG, and Stephen Sungnome Madrone, (neighboring property owner) (Appendix L).

Section 15123 for the *CEQA Guidelines* requires that each EIR contain a brief summary of the proposed action and its consequences. The Executive Summary must include the following:

1) each significant effect with proposed mitigation measures and alternatives that would reduce or avoid that effect; 2) Areas of controversy known to the lead agency including issues raised by agencies and the public; and 3) Issues to be resolved including the choice among alternatives and whether or how to mitigate the significant effects.

Project Description

The proposed project is located in Humboldt County, approximately one mile east of the City of Trinidad, on both sides of Fox Farm Road, approximately 0.91 mile northeast from the intersection of Fox Farm Road with North Westhaven Drive, on the properties known as 900, 1180, 1190, and 1199 Fox Farm Road (Figure 2-1). The project applicant proposes to divide an approximately 94 acre parcel into four parcels ranging from 20.11 acres to 32.11 acres (Figure 2-5) with the expectation that the lots will subsequently be developed in conformance with the County General Plan and Zoning Ordinance. The General Plan land use designation for the site, as shown in the North Humboldt General Plan (NHGP), is split with the southerly approximately 20 acres of the site designated as TIMBER; RECREATION, and the northerly approximately 74 acres designated as DISPERSED HOUSES; TIMBER. The site is within the Exclusive Agriculture (AE) Zone. Generally, the AE Zone permits a maximum of one residential unit per parcel.

Prior to the April 8, 2003, ruling of the California Court of Appeals indicating that the original map approval had expired on November 29, 1999, the applicant secured approvals and carried out improvements related to the project. Mr. Moss secured an encroachment permit and approval of design plans for the widening of Fox Farm Road. Improvements to the road were accepted as complete by Humboldt County. Mr. Moss also secured a "Section 1600" Streambed Alteration permit from the California DFG for the installation of domestic water collection facilities in Deadman Creek and the North Fork of Luffenholtz Creek (Appendix D). The water improvements were accepted by the Humboldt County Department of Environmental Health on

July 25, 2000 (Appendix E). As these improvements were approved and installed under the provisions of a valid environmental document, and prior to the determination that the originally approved Tentative Map had expired, those project elements are no longer considered to be a part of the current proposed project. Although the construction of water intake facilities was completed under an approved Streambed Alteration Permit, the DFG indicates in their response to the most recent Notice of Preparation (Appendix L), that the applicant will need to secure a subsequent Streambed Alteration Permit for the diversion of water from the streams to serve the proposed residences.

Relationship to Prior Documents

As noted above, an identical project was approved in 1997, with an Initial Study (Appendix A) which found that the project would have no significant effects. Upon reapplication, a new Initial Study (Appendix H) was completed in 2005, which resulted (following the resolution of litigation) in a determination that the 1997 Initial Study and associated Negative Declaration and Notice of Determination remain valid for the project for all potential impacts except those for which the 2005 Initial Study identified “changed circumstances.”

The two areas of the 1997 Initial Study determined to have been superceded by the 2005 Initial Study as a result of changed circumstances are:

Section IV.i: Water – Substantial reduction in the amount of water otherwise available for public water supplies; and

Section VII.a: Biological Resources – Impact to endangered, threatened, or rare species of their habitats (including but not limited to plants, fish, insects, animals, and birds.)

Section IV.i has been superceded on the basis of findings in the 2005 Initial Study that indicated the project could have a significant effect on the amount of water available for the City of Trinidad public water system. The proposed project would draw domestic water from the North Fork of Luffenholtz Creek, a tributary of Luffenholtz Creek which is the primary source of domestic water for the City of Trinidad. The City of Trinidad submitted a letter to the County of Humboldt on May 25, 2004 (Appendix K), indicating that municipal water demand had substantially exceeded the projections made in the 1997 Initial Study and that, therefore, the City would be significantly adversely affected by the reduction of water from Luffenholtz Creek upstream of their water intake. The City of Trinidad provided additional information to support this position in a second letter dated August 4, 2005 (Appendix K).

Furthermore, the Trinidad Cal Fire station located outside the City limits has since requested a water service extension to provide potable water to the station from the City’s municipal system since their current water source has become unreliable and unsuitable for drinking. An extension of City services to a location beyond the City’s boundaries requires action by the Local Agency Formation Commission (LAFCo). Before this action can occur, Cal Fire and the City are

required to participate in a feasibility study to ensure that a new service connection would not negatively impact the provision of adequate water supplies to the City's existing users.

Section VII.a has been superceded on the basis of findings in the 2005 Initial Study that the coastal cutthroat trout had been listed by the California DFG as a "Species of Concern" after the project had been reviewed and approved. As the coastal cutthroat trout was not identified as a species of concern at the time of the 1997 Initial Study, no effort had been made to determine whether that species inhabits the North Fork of Luffenholtz Creek, Deadman Creek, or Luffenholtz Creek, downstream of the subject site. The 2005 Initial Study indicates that additional information would be necessary to determine whether the proposed project would have a significant effect on coastal cutthroat trout.

This SEIR will be focused narrowly on the potential impacts to coastal cutthroat trout and the water supply of the City of Trinidad. The original (1997) Initial Study and Notice of Determination are included in Appendices A and C, and should be consulted for the analysis of all other resource areas. Some information in the 1997 Initial Study will be referenced or summarized in those portions of the EIR which are intended to address all project impacts comprehensively, such as the required list of potentially significant impacts and mitigation measures below. The inclusion of these references is intended to improve the readability and ease of use of the document, but is not intended to re-analyze, update, or amend the 1997 Initial Study and Negative Declaration.

Summary of Impacts and Mitigation Measures

CEQA Guidelines Section 15123(b)(1) requires an EIR Executive Summary to identify each environmental factor that is identified as significant in the absence of mitigation measures. All mitigation measures to reduce, eliminate, or avoid such impacts are also required to be identified in the Executive Summary. That information is summarized in Table ES-1 Summary of Potential Impacts and Proposed Mitigation Measures. All identified impacts including those to coastal cutthroat trout and the City of Trinidad water supply have been found to be less than significant or less than significant with appropriate mitigation measures. Note that Table ES-1 is a summary of information discussed in greater detail in Chapter 3 and Appendix A.

Cumulative Impacts

In addition to the analysis of the impacts of a specific project, CEQA Guidelines Section 15130 requires an EIR to include a discussion of the "cumulative effects" of a project. Cumulative effects typically arise where the impact from the proposed project is added to other closely related past, present, and reasonably foreseeable future projects. A cumulative effects analysis was conducted both of specific projects in the vicinity and assuming at full buildout of the local sub-watershed. Cumulative effects of the Moss Parcel Map Subdivision were determined to be less than significant with the adoption of appropriate mitigation measures.

Alternatives

CEQA Guidelines Section 15126.6 requires EIRs to discuss alternatives to the proposed project which would achieve some or all of the project goals and which have the potential to reduce one or more potential impacts of the proposed project. One of the alternatives considered is required to be the “No Project” Alternative. The complete alternatives analysis of the Moss Parcel Map Subdivision is found in Chapter 4. The alternatives considered are:

- Alternative No. 1 - “No Project”
- Alternative No. 2 – Alternative Water Supply (Wells)
- Alternative No. 3 – Clustered Development

The comparison of the potential impacts of the proposed project concluded that the “No Project” Alternative is the environmentally superior project; however, that alternative does not meet any of the project objectives. Of the alternatives that meet the project objectives Alternative No. 2 is the environmentally superior project.

Unavoidable Significant Environmental Effects

Unavoidable Significant Environmental Effects are effects of the project that cannot be mitigated or for which mitigation measures are not sufficient to reduce the impact below a threshold of significance. No unavoidable significant environmental effects have been identified as a result of the proposed project.

Significant Irreversible Environmental Changes

Significant Irreversible Environmental Changes are those which either irretrievably utilize considerable quantities of a nonrenewable resource or which commit future generations to a continued use of resources, or to a particular environmental consequence (e.g., by providing road access to a previously inaccessible area). No Significant Irreversible Environmental Changes have been identified as a result of the proposed project.

Growth Inducing Effects

Chapter Five includes a discussion of the growth inducing impact of the project, as required by CEQA Guidelines Section 15126.2(d). Such impacts are defined as the ways in which the project could encourage economic or population growth, or the construction of new housing development. Growth inducing impacts are often associated with General Plan Amendments and utility system capacity enhancements. Outside of the limited number of houses expected to be developed on the subject site, the project is not expected to lead to additional development in the area and will not have a significant effect on the local economy or ability to provide additional services.

Effects Found not to be Significant

The following effects were found not to be significant, or to be reduced to less than significant as a result of the application of appropriate mitigation measures.

- Land Use and Planning:
 - Conflict with General Plan designation or zoning
 - Be incompatible with existing land use in the vicinity
 - Affect agricultural resources or operation
 - Disrupt or divide the physical arrangement of an established community
- Population and Housing:
 - Cumulatively exceed official regional or local population projections
 - Induce substantial growth in an area either directly or indirectly
 - Displace existing housing, especially affordable housing
- Geological Problems Involving:
 - Fault Rupture
 - Seismic ground failure, including liquefaction
 - Seiche, tsunami, or volcanic hazard
 - Landslides or mudflows
 - Subsidence of the land
 - Expansive soils
 - Unique geologic or physical features
- Water:
 - Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff
 - Exposure of people or property to water related hazards such as flooding
 - Discharge into surface waters, or other alteration of surface water quality
 - Changes in the amount of surface water in any water body
 - Changes in currents, or the course or direction of water movements
 - Change in the quantity of groundwater, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations or through substantial loss of groundwater recharge capability
 - Altered direction or rate of flow of groundwater
 - Impacts to groundwater quality
 - Substantial reduction in the amount of water otherwise available for public water supplies
- Air Quality:
 - Violate any air quality standard or contribute to an existing or projected air quality violation
 - Expose sensitive receptors to pollutants
 - Alter air movement, moisture, or temperature, or cause any change in climate
 - Create objectionable odors

- Transportation/Circulation:
 - Increased vehicle trips or traffic congestion
 - Insufficient parking capacity onsite or offsite
 - Conflicts with adopted policies supporting transportation
 - Rail, waterborne, or air traffic impacts
- Biological Resources:
 - Endangered, threaten[ed] or rare species or their habitats
 - Locally designated species
 - Locally designated natural communities
- Energy and Mineral Resources:
 - Conflict with adopted energy conservation plans
 - Use non-renewable resources in a wasteful and inefficient manner
 - Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State
- Hazards:
 - A risk of accidental explosion or release of hazardous substances
 - The creation of any health hazard or potential health hazard
 - Exposure of people to existing sources of potential health hazards
- Noise:
 - Increases in existing noise levels
 - Exposure of people to severe noise levels
- Public Services:
 - Effect or result in a need for new or altered police protection services
 - Effect or result in a need for new or altered school services
 - Effect or result in a need for new or altered other government services
- Utilities and Service Systems:
 - Power or natural gas
 - Communications systems
 - Local or regional water treatment or distribution facilities
 - Sewer or septic tanks
 - Storm water drainage
 - Solid waste disposal
 - Local or regional water supplies
- Aesthetics:
 - Affect a scenic vista or scenic highway
 - Have a demonstrable negative aesthetic effect
 - Create light or glare
- Cultural Resources:
 - Disturb paleontological resources
 - Disturb archaeological resource[s]
 - Affect historical resources

- Have the potential to cause a physical change [which] would affect unique ethnic cultural values
- Restrict existing religious or sacred uses within the potential impact area.
- Recreation:
 - Increase the demand for neighborhood or regional parks or other recreational facilities
 - Affect existing recreational opportunities
- Mandatory Findings of Significance:
 - Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory
 - Have the potential to achieve short-term, to the disadvantage of long-term, environmental goals
 - Have impacts which are individually limited, but cumulatively considerable
 - Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly

Potential Areas of Controversy and Issues to be Resolved

CEQA Guidelines Sections 15123(b)(2) and (3) require the Executive Summary to describe potential areas of controversy identified in preparation of the Draft EIR. This project has been the subject of considerable prior litigation and is expected to continue to be controversial as the environmental effects and appropriateness of the project are considered through the public review process. Issues identified in the Notice of Preparation period include the following:

- The appropriateness and completeness of the project description.
- The method of determining and analyzing cumulative impacts.
- The determination and analysis of potentially growth inducing effects of the project and actions (such as road construction), undertaken during the period in which an identical, prior project was active.

EIR Mitigation Measure No. 3

To avoid excess short-term withdrawals during the periods in which the tanks required by 2009 Mitigation Measure No. 2 are being filled, pumps shall be sized or otherwise regulated to draw a maximum of two gallons per minute on Deadman Creek and a combined maximum of five gallons per minute on the North Fork of Luffenholtz Creek.

3.2.1.8 Effectiveness of Mitigation Measures

The implementation of 1997 IS Mitigation Measure No. 7, 1997 IS Mitigation Measure No.10 and 2009 EIR Mitigation Measures 1 and 2, will have the effect of protecting any resident populations of coastal cutthroat trout from effects related to construction, sedimentation and erosion, and will preserve in-stream flows sufficiently to avoid impacts to such populations. Following mitigation, the impact to the population of coastal cutthroat trout will be *less than significant*.

3.2.2 Water Resources – Substantial reduction in the amount of water otherwise available for public water supplies

3.2.2.1 Introduction

Potable water is a valuable and increasingly constrained resource throughout California and in the Humboldt County. Protection of water sources for domestic, environmental, agricultural, and industrial purposes is critical to sustainable future of the region. The water resources section addresses potential affects to water quality and availability by examining the potential for contamination, overdraft of groundwater supplies and diversion of water from existing beneficial uses.

As described in Chapter One, the 2005 Initial Study (Appendix H) found that the project may have a potentially significant impact to the amount of water available to the City of Trinidad. The City relies on Luffenholtz Creek as the primary water supply. Any withdrawals from the North Fork of Luffenholtz Creek will necessarily be reflected in less water arriving at the City of Trinidad and available for their continued use. This finding was based on information received from the City of Trinidad regarding changes in their water demand which had occurred after the adoption of the 1997 Initial Study. Upon review, the courts concurred with the County's findings that the information from the City of Trinidad constituted a "changed circumstance" which merited further review. All other issues with regard to biological resources have been determined to be adequately described by the 1997 Initial Study and will not be revisited in this section.

A Supplemental Water Supply Assessment of the City of Trinidad was prepared by LACO Associates (Appendix N) to update and extend the 1995 Winzler and Kelly study (Appendix B) prepared for the original application. The Supplemental Water Supply Assessment reviews available information regarding water demand in Trinidad over time, required pass-through flows in Luffenholtz Creek and other factors to determine whether reductions in flows along the

North Fork of Luffenholtz Creek are likely limit the City's ability to continue providing service to their customers.

Following the completion of the LACO Associates' study (Appendix N), the lead agency learned of a similar study prepared in April 2009, by Winzler & Kelly (Appendix O) on behalf of the Trinidad Cal Fire station located outside the City's limits on Patrick's Point Drive. The Winzler & Kelly study analyzed the potential impacts that a 1-inch water line extension from the City's existing service system to the station could have on the City's water supply. Any service extension of this type outside of a municipal service boundary requires action of the local LAFCo authority; the preparation of this study was intended to satisfy one of the application requirements for extension. LACO prepared a 2010 addendum (Appendix O) to the 2009 LACO Water Supply Assessment to include the information in the 2009 Winzler & Kelly Study.

3.2.2.2 Physical Setting

The North Fork of Luffenholtz Creek crosses the property generally from north to south, entering the main stem of Luffenholtz Creek approximately 350 feet south of the subject site. Together, the Luffenholtz Creek, the North Fork of Luffenholtz Creek and other tributaries such as Eighteen Creek and Grassy Creek drain a watershed of approximately 3,200 acres. Downstream of the confluence with the North Fork of Luffenholtz Creek, the stream continues approximately 1.1 miles to the southwest, entering the Pacific Ocean at Luffenholtz Beach County Park.

The City of Trinidad water system intake is located along Luffenholtz Creek approximately one mile downstream of the subject site. The intake consists of 180 gpm (229,000 gpd) capacity surface water treatment plant. Raw surface water is collected from Luffenholtz Creek and treated by direct filtration and chlorination. The distribution system consists of approximately 13 miles of predominantly asbestos-cement piping and includes two 150,000 gallon redwood storage tanks. The system serves 315 metered connections and five unmetered connections.

Based on prior studies and analysis, the LACO 2009 Supplemental Water Supply Assessment (Appendix N) estimates that Luffenholtz Creek will produce a minimum of 290 gallons per minute at the Trinidad water system intake in dry years. This estimation remains unchanged even after adding the proposed water service extension for the Cal Fire station with an additional estimated use of 800 gpd.

3.2.2.3 Regulatory Setting

Each of the three proposed parcels which border the North Fork of Luffenholtz Creek are expected to claim a riparian right to use water within the stream. The following is excerpted from the State Water Resources Control Board website at (http://www.waterboards.ca.gov/waterrights/board_info/water_rights_process.shtml):

Water right law in California and the rest of the West is markedly different from the laws governing water use in the eastern United States.

Seasonal, geographic, and quantitative differences in precipitation caused California's system to develop into a unique blend of two very different kinds of rights: riparian and appropriative. Other types of rights exist in California as well, among them reserved rights (water set aside by the federal government when it reserves land for the public domain) and pueblo rights (a municipal right based on Spanish and Mexican law).

Riparian rights usually come with owning a parcel of land that is adjacent to a source of water. With statehood, California adopted the English common law familiar to the eastern seaboard; such law also included the riparian doctrine.

A riparian right entitles the landowner to use a correlative share of the water flowing past his or her property. Riparian rights do not require permits, licenses, or government approval, but they apply only to the water which would naturally flow in the stream. Riparian rights do not entitle a water user to divert water to storage in a reservoir for use in the dry season or to use water on land outside of the watershed. Riparian rights remain with the property when it changes hands, although parcels severed from the adjacent water source generally lose their right to the water.

Section 3362 of the Humboldt County General Plan (Framework Plan) recognized the Luffenholtz Creek watershed as the City of Trinidad's "Critical Water Supply Area." Such areas are defined as those "used by a specific municipality or community for its water supply system, which is so limited in area that it is susceptible to a potential risk of contamination from development activities."

Section 3361.3 of the Humboldt County General Plan includes the following policy:

"Ensure that the intensity and timing of new development will be consistent with the capacity of water supplies."

3.2.2.4 Impact Evaluation Criteria:

The 1997 Initial Study identified checklist item IV(d) "*Would the project result in substantial reduction in the amount of water otherwise available for public water supplies?*" as Less than Significant, largely on the basis of information submitted in the 1995 Winzler & Kelly Water Supply Analysis (Appendix B). The 2005 Initial Study has no comparable question for analysis, however, the reference to changed information which calls into question the findings of the 1997 Initial Study is found in response to checklist item 8)c "*Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?*" As the issue to be resolved in this EIR is focused on water supplies for the City of Trinidad, the threshold of significance will be based on the 1997 Initial Study checklist question. The information submitted by the City of Trinidad established a fair argument that a significant effect would occur based on changes in the amount of water diverted from Luffenholtz Creek

between 1995 and 2005. It was the City's assertion that the change in diversions coupled with a fixed minimum pass-by flow, had combined to bring the City close to its maximum permitted draw from Luffenholtz Creek and that reductions in flows in the creek resulting from upstream development had the potential to limit the City's continued ability to provide water service. As such, the following threshold is adopted:

“A significant effect will be determined to occur if upstream diversions from Luffenholtz Creek (and its tributaries) resulting from this project, will cause a substantial risk to the City of Trinidad's continued ability to meet existing and reasonably anticipated water demand, while preserving mandatory pass-through flows.”

3.2.2.5 Project Impacts

In order to determine the magnitude of the project's impact to the City of Trinidad, it is necessary to determine values for anticipated flows in Luffenholtz Creek, minimum pass-by flows at the City of Trinidad intake, anticipated demand for diversion to serve the City of Trinidad, and the likely diversions of water from Luffenholtz Creek necessary to serve the project.

A Supplemental Water Supply Assessment of the City of Trinidad's water system (Appendix N) was prepared for this project by LACO Associates to address these questions and to supplement the 1995 Winzler and Kelly report (Appendix B). In general, where the factual basis of the 1997 Initial Study and the 2004 Initial Study agree, and where no contradictory information was uncovered in the Water Supply Assessment, those facts are assumed to continue to be valid.

Anticipated flows in Luffenholtz Creek:

The 1995 Winzler & Kelly report (Appendix B) included a direct measurement of flows at the City of Trinidad intake structure. Based on the measured flows and two prior studies, (1968-1969 and 1980), the study concludes that the best available data predicts a low flow volume of 290 gpm. The 2009 LACO report (Appendix N) accepted the findings of the 1995 Winzler & Kelly report as the best data currently available.

Minimum Pass-By Flows:

The 1995 Winzler & Kelly report identified a minimum permissible flow following diversion for the City of Trinidad, and downstream users of 67 gpm in dry years and 112 gpm in normal years. These volumes are set to maintain the habitat value in the stream for fish and other species. Downstream diversions were identified as “less than three gallons per minute.” The 2009 LACO report accepted these findings; however, the study assumes that the normal year pass-by flows for habitat of 112 gallons per minute should be maintained even in dry-years with reduced in-stream flows. This yields a conservative estimate of 115 gallons per minute as the minimum pass-by flow which should be preserved at the City of Trinidad intake. Assuming a dry-year flow of 290 gpm as previously established, the maximum diversion from the stream should be 175 gallons per minute.

Anticipated Demand for the Trinidad Water System:

This is the component which has been subject to the greatest debate in past documents, and was the primary focus of the 2009 LACO report. The 1995 Winzler & Kelly report estimated peak diversions to be 125 gallons per minute, leaving 95 gpm available for additional diversions within the City or upstream. The letters submitted by the City of Trinidad, providing input to the 2005 Initial Study indicated that water diversions at the City's intake had increased by 73 percent between 1995 and 2004. This would indicate that peak diversions would be expected to be 216 gallons per minute. This increase in diversions was determined in the 2005 Initial Study to approach the maximum available flow of 220 gallons per minute which had been established in the 1995 Winzler & Kelly report.

The 2009 LACO study analyzed actual water use records from 1997 to 2009. Both the amount diverted from Luffenholtz Creek, and the volume of metered deliveries was considered. Note that the difference between the diversion volume and the metered delivery volume represents the water sent to the five existing unmetered services, leaks, and other system losses. As the City of Trinidad reports these figures on an aggregate monthly basis, the 2009 LACO study also addressed the "peaking factor" which is necessary to estimate the Maximum Day Demand (MDD). It should be noted that the City of Trinidad been actively seeking to identify and repair system leaks over the course of several years. City Staff report correcting a significant leak in 2008, estimated to have been responsible for the loss of approximately 20 gallons per minute.

The highest single month diversion from Luffenholtz Creek over the study period occurred in July, 2006. During that month, the average daily diversion was 104,613 gallons (72.6 gallons per minute). Based on a review of actual use records, correspondence from the City of Trinidad, and a review of available literature, the study concludes that the appropriate "peaking factor" for the City is 1.8, meaning that the MDD is expected to be 1.8 times the Average Day Demand. Thus, the calculated MDD for the system over the period from 1997 to 2009 was determined to be 188,352 gpd (130.8 gpm). This is approximately 44.2 gpm less than the calculated maximum flow in Luffenholtz Creek, which would be available for diversion. Using the established peaking factor, the study concluded that the average demand for each service connection on the day of the largest demand occurring in the period of 1997 to 2009 would have been 589 gpd (0.4 gpm).

The 2009 LACO study includes a section which projects future demand for diversion to serve the City of Trinidad. This section presumes full buildout of the currently adopted General Plan, as described in the current (1997) Housing Element. In that document, the City of Trinidad anticipates the development of an additional 64 residential units, all of which are expected to be served by the municipal water system. Adding these units to the existing system would yield a future average day demand in the maximum month of 132,177 gallons (92 gpm), and a future MDD of 230,299 gallons (160 gpm).

Under the worst circumstances described, in the future case in which an additional 64 units have been constructed, under dry year flows in Luffenholtz Creek of 290 gpm, and accounting for normal year pass-by flows of 112 gpm, and maintaining 3 gpm for downstream users, the MDD of 160 gpm would leave an additional 15 gpm available in Luffenholtz Creek for additional diversions upstream or downstream without imposing limits on diversions to the City of Trinidad.

Following completion of the LACO 2009 Supplemental Water System Analysis (Appendix N), the Lead Agency was informed of an additional analysis of the water supply available to the City of Trinidad (Preliminary Feasibility of Connecting Study, Winzler & Kelly, 2009) (Appendix O). That study was conducted specifically to address the request by the Trinidad Cal Fire station on Patrick's Point Drive to receive a new extension of water service to the station from the City's water system. A Preliminary Feasibility of Connecting Study was prepared which indicated that the fire station would require a total peak daily water supply of 800 gpd (0.6 gpm), and concluded that the City of Trinidad water system had the capacity to meet that demand. At the Lead Agency's request, LACO prepared a supplement (Appendix O) to the LACO 2009 Supplemental Water Supply Assessment to determine whether the underlying assumptions of the Winzler & Kelly 2009 study continued to support the findings of both the Winzler & Kelly 1995 Study (Appendix B), and the LACO 2009 Study. The LACO 2010 supplement also addresses any changes to the original analysis which may be caused by the proposed service to the Trinidad CalFire Station. As LACO's 2009 Study used conservative assumptions, the outcome of this second analysis remains nearly the same; e.g., the addition of the 800 gpd to be used by the fire station, is generally in line with the anticipated growth in demand already factored into the LACO analysis and does not materially alter its findings.

Project Demand

Project water demand was estimated in the Water Supply Assessment to be similar to the average demand per service connection established for the City of Trinidad – 327 gallons per day (0.2 gpm) with a maximum day demand of 589 gallons per day (0.4 gpm). The Project consists of up to three additional residential homes obtaining water from Luffenholtz Creek, resulting in an average day demand of 981 gallons per day (0.7 gpm) and a maximum day demand of 1,570 gallons per day (1.1 gpm). (The fourth proposed residence would take water from Deadman Creek and is excluded from consideration of impacts to the City of Trinidad's water system). As described in Section 3.2.1.5 above, an alternative method for calculating project demand which was not considered in the technical study would be to rely on the minimum mandatory flow of 400 gpm to comply with Section 2554.9.A of the Humboldt County Framework Plan element of the General Plan. As the analysis in the technical study relies on a MDD of 589 gpd which exceeds the General Plan minimum, the analysis of impacts to water supply for the City of Trinidad will rely on the assumptions within the technical study.

2009 Mitigation Measure No. 2, above, requires the installation of water tanks on the subject property to avoid the withdrawal of surface water during the dry season (generally August 15 to November 15). Further, to limit excessive withdrawals while tanks are being filled, 2009 Mitigation Measure No. 3, above, requires that pumps be sized or otherwise regulated to limit withdrawals from the North Fork of Luffenholtz Creek to a maximum of 6 gpm. The only period of sustained withdrawal would be likely to occur during the early weeks of the wet season as the tanks are being refilled. During this period, flows in Luffenholtz Creek at the City of Trinidad intake will also be above their dry season minimum, allowing additional stream capacity without restricting the City of Trinidad's diversions.

Anticipated Project Affect on Available Supply:

Taking all of the above into account leads to the following:

Future Year Diversion for Trinidad Water System
(Full Plan Buildout, Peak Day in Maximum Month):160 gpm

Pass-by Flow reserved for downstream users:	3 gpm
Pass-by Flow reserved for Habitat (normal year):	112 gpm
Dry year flow in Luffenholtz Creek at Intake (Without Project):	290 gpm
Dry year flow in Luffenholtz Creek at Intake (With Project, Peak Day in Maximum Month):	289 gpm
“Unassigned” Pass-by Flow without project (Peak Day in Maximum Month):	15 gpm
“Unassigned” Pass-by Flow with project (Peak Day in Maximum Month):	14 gpm

3.2.2.6 Determination of Significance (without mitigation)

The reduction in “unassigned” pass by flows from 15 gpm to 14 gpm in the worst case analysis (full General Plan buildout, peak day demand, in the maximum month of a dry year, while preserving normal year habitat flows) does not present a substantial risk to the City of Trinidad’s continued ability to meet existing and reasonably anticipated water demand, while preserving mandatory pass-through flows. Therefore the project impact is determined to be *less than significant*.

3.2.2.7 Mitigation Measures

None Required

4.2 Cumulative Impacts

4.2.1 Summary

The CEQA Guidelines require that all Environmental Impact Reports contain an analysis of the cumulative impacts of the proposed project. Section 15355 of the Guidelines defines Cumulative Impacts as:

"Cumulative impacts" refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

- (a) The individual effects may be changes resulting from a single project or a number of separate projects.*
- (b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time."*

The first step in this analysis typically occurs during the Initial Study. Such effects may be discussed with individual resources and must be considered when addressing "Mandatory Findings of Significance." CEQA Guidelines Section 15065(a)(3) requires a lead agency to determine that a project may have a significant effect, and to prepare an EIR whenever:

"The project has possible environmental effects that are individually limited but cumulatively considerable. 'Cumulatively considerable' means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

When such cumulatively considerable effects are identified in the Initial Study, and the lead agency determines that an EIR should be prepared, CEQA Guidelines Section 15065(c) requires that cumulative effects be taken into account when determining the depth of discussion of various potential impacts, the design of appropriate mitigation measures, and the evaluation of project alternatives.

The 1997 Initial Study (Appendix A), concluded that the project does not have impacts which are individually limited but cumulatively considerable. The primary basis for this finding was the limited ability of neighboring properties to be developed in the absence of comprehensive environmental reviews. The Initial Study prepared in 2005 (Appendix H), found cumulative impacts to be potentially significant. The 2008 Appellate Court decision (Appendix J) authorizes the preparation of a Supplemental EIR to discuss solely the issues of potential impacts to the population of coastal cutthroat trout and the water supply of the City of Trinidad. The Appellate Court does not specifically discuss the issue of cumulative impacts. Based on the above facts and prior analyses, the County of Humboldt, acting as lead agency, has determined that the analysis

regarding effects which are “cumulatively considerable” continue to apply to this analysis and that the EIR must include a discussion of the potential cumulative impacts of the project to the two areas on which the EIR is focused.

The first step in preparing a Cumulative Impacts analysis is to set the project in context with other proposed and potential development. CEQA Guidelines Section 15130(b) provides direction for setting this context. The lead agency may use either of the following methods to determine what other projects to consider in the analysis:

- A. *A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or*
- B. *A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or area wide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.*

4.2.2 Identification of Projects Contributing to Cumulative Impacts

The lead agency has opted to prepare two complementary analyses of Cumulative Impacts using both the “list of projects” approach and the “General Plan Buildout” approach. The “list of projects” approach was utilized to give the most precise measure of anticipated development in the area, and allows a specific discussion of actual anticipated impacts. The complementary General Plan Buildout approach was prepared to address comments received regarding cumulative impacts in response to both the 1997 and 2005 Initial Studies and in response to the 2009 NOP (Appendix L). Such comments have encouraged the lead agency to take an unusually expansive view of the cumulative impacts of the proposed project. Some comments suggest that the project be viewed as the first stage of a plan for development of a much larger area, generally north and east of the subject site.

The lead agency has utilized a “sub-watershed” buildout approach to analyze a larger series of subdivisions throughout the project area based on a projection that most existing large parcels would be divided to approximately the minimum lot size permitted by the General Plan (generally 20 acres). This approach was used even though there is uncertainty in determining the source of water which would be proposed in such a scenario. Large parcels in the vicinity could draw from one of at least three surface water sources (Luffenholtz Creek, Deadman Creek, and Mill Creek), a larger variety of springs and minor drainages, or could propose the development of onsite wells. As the critical areas for consideration in this EIR are strongly dependent on an analysis of water supply, the lead agency determined that a sub-watershed “build-out” method of calculating cumulative impacts should also be addressed with regard to the potential impacts to coastal cutthroat trout and the water supply of the City of Trinidad.

The lead agency has also received comments, suggesting that the cumulative impacts analysis should address build out to densities not currently permitted by the General Plan by assuming that future General Plan Amendments may be proposed. Some comments found additional justification in this suggestion from the ongoing comprehensive General Plan update process being undertaken by the County of Humboldt. One of the four alternate development scenarios (Alternative C) being assessed in that process would permit considerably higher density development (rural residence 5-20 acres) on the subject site and parcels to the west and south. The lead agency finds no justification in the CEQA Statutes or Guidelines for assuming that the General Plan will be changed in specific ways or that any particular alternative in the General Plan Update process will be selected. If a General Plan Amendment is proposed which would permit increased residential density on the subject site, that project will be subject to considerable CEQA review on its own merits. Until such a project is proposed, however, the potential impacts of development to a standard not currently permitted has been determined to be too speculative to address.

“List of Projects” Approach

As both impact areas to discuss relate specifically to the watercourses which traverse the property, the County identified the watersheds of the Luffenholtz Creek, the North Fork of Luffenholtz Creek and Deadman Creek, respectively, as the geographic area in which contributions to cumulative effects could occur. Specifically, Humboldt County Staff prepared a list of all projects which had been initiated since 1996 on any of the parcels shown in Assessor’s Parcel Map Book 515, Pages 11, 12, 13, 14, and 29, and Assessor’s Parcel Map Book 513, Pages 10 and 11 (Appendix Q). The search included projects that had been completed, projects currently underway, and projects which have not yet been formally initiated, but which have been brought to the County’s attention through an early consultation or request for information.

In addition to the subject project, the County identified the following proposals:

- 1) Coastal Development Permits and other requests for the development of a total of six new single family residences.
- 2) Proposed divisions of land from a total of three existing parcels to a total of seven proposed parcels.

Sub-Watershed Buildout Approach

In addition to the “list of projects” approach, and in an effort to also look at potential cumulative impacts through a sub-watershed approach, the Lead Agency considered the development potential within the Luffenholtz sub-watershed along Adams Fox Farm Road of all assessor parcels within Section 19 and the North quarter of Section 30. This generated the following APN list, with the respective development potential:

AG-B5(3) zoning, three acre minimum parcel size: 515-291-08, -10, -12, -13, -14, -15, -17, -18, -21, -23, -24, -27, -28, -29, -33, -34, -35; 515-131-11, -17, -18.

All of these parcels show some improvements (i.e. are already developed), and five of them have the potential for further subdivision (of one lot into two) under the minimum parcel size of three acres, for a potential of five additional lots.

AE zoning, 20 acre minimum parcel size: 513-101-19, 515-291-44, -45, -46; 515-131-26
Five of these parcels (including the Moss parcel) have the potential for further subdivision into minimum 20 acre parcels that could result in 13 parcels where five exist today, for eight additional potential parcels. Note 515-291-46 is the Moss property and represents three of the new lot potential.

Unclassified zoning (RE general plan): 515-121-23. There is one undeveloped parcel that has the potential for one dwelling unit according to the Housing Inventory.

TPZ zoning, 160 minimum parcel size (40 acres with a JTMP): 515-291-03, 513-101-15; 515-131-05. Two parcels are 20 acres or less and have some improvements (i.e. is already developed) and the other parcels is 270 acres, undeveloped, and has the potential for subdivision into six parcels with a Joint Timber Management Plan (JTMP). These parcels have the potential for six additional dwelling units.

Total subdivision and/or new residential development potential (exclusive of secondary dwelling units) for this area is the possible development of an additional 20 residential units. The development of secondary dwelling units on these parcels has been determined to be too speculative to analyze in relevant CEQA case law, however, typically, fewer than 20 percent of residential parcels have secondary dwelling units in other areas of the County (personal communication with Humboldt County Planning Division Staff, June, 2010).

As noted above, it is unlikely that all of the potential new development would be served by water withdrawals from surface waters which could affect coastal cutthroat trout or the water supply of the City of Trinidad. Many of the evaluated parcels lack access to surface water and, therefore, are unlikely to be able to secure surface water rights. If development on those parcels is proposed, they are likely to utilize on site water wells for domestic water supplies. Public comments previously submitted addressing the current project expressed concern that under a worst case cumulative scenario, the cumulative subdivision and build out potential of the sub-watershed has the potential to exceed the available surface water flow in Luffenholtz Creek. This situation has been recognized in the Humboldt County general plan (see section 4.2.3.2 below).

4.2.3 Cumulative Impacts of Development

For the purposes of calculating cumulative impacts to the watershed, the County utilizes the following assumptions:

- 1) Subdivision of land indicates an intention or willingness to develop single family residential uses on each created parcel.

- 2) Each parcel created by a subdivision has the potential to be developed with one dwelling unit (a main residence). Note: accessory (secondary) dwelling units allowed pursuant to the County Zoning Ordinance were not considered pursuant to Save Round Valley Alliance v. County of Inyo (2007) 157 Cal. App. 4th 1437, which found such analysis to be unduly speculative.
- 3) Each new dwelling unit will withdraw water either directly or indirectly from Luffenholtz Creek. This is a simplifying assumption intended to show a likely worst-case scenario.
- 4) Pursuant to the adopted standards of the Humboldt County Department of Environmental Health, each dwelling unit is presumed to draw an average of 0.5 gpm from their water source.

Under the project list approach, the total impact of recent, current, and reasonably anticipated development to the flows along Luffenholtz Creek is calculated to be approximately 6.5 gpm (seven new parcels at one dwelling unit each, plus six additional dwelling units, times 0.5 gpm per unit). When added to the anticipated draw from the North Fork of Luffenholtz Creek identified in Chapter 3 and Appendix N of approximately 1.1 gpm, the cumulative impact is approximately 7.6 gpm.

Under the sub-watershed approach, the total impact of potential subdivisions and development to the flows along Luffenholtz Creek is calculated to be 10.0 gpm (19 new parcels at one dwelling unit each and one additional dwelling unit times 0.5 gpm per unit). When added to the anticipated draw from the North Fork of Luffenholtz Creek, the cumulative impact is 11.1 gpm. This, more conservative, estimate of cumulative water demand will be used for impact analysis and the design of appropriate mitigation measures.

4.2.3.1 Cumulative Impacts to Coastal Cutthroat Trout

As noted in Chapter 3, no reliable scientific information has been identified to establish minimum acceptable flow which is broadly applicable to support non-anadromous populations of coastal cutthroat trout. In personal communication, Jane Arnold, of the California DFG noted a fundamental risk that momentary peak demand, occurring during the dry season, have the potential to completely de-water smaller streams. Even a brief period of such a loss would make the stream uninhabitable downstream of the diversion point. The Biological Study prepared for this EIR (Appendix M) notes that “*Water diversions that result in the complete or near complete depletion of surface flows are likely to cause stress and mortality to salmonids.*”

In the absence of controls limiting withdrawals, particularly those during the dry season, the project has the potential to cause the total or near total de-watering of Deadman Creek and Luffenholtz Creek, either at the project intake or by reducing flows to existing downstream users causing their intakes to dewater the stream(s).

The projects identified for analysis as having potentially cumulative effects in conjunction with the proposed project are located within the Luffenholtz Creek watershed, but do not all share access to the same tributaries as the proposed project. One project, a coastal development permit for a single family residence, is located on Deadman Creek, downstream of the subject site. That project has the potential to exercise riparian water rights to Deadman Creek for domestic use or other purposes. Other projects are located along McConnahas Mill Creek, and in the vicinity of the main stem of Luffenholtz Creek.

The direct effects of the project are substantially reduced through mitigations which provide for building setbacks from the streambed, erosion control measures, and, most significantly, requirements for off-stream storage of water for use in the dry season. Similar setbacks and erosion controls apply generally to development in the vicinity of streams and are expected to apply to each of the proposed projects. Humboldt County has not typically imposed similar requirements for off-stream storage. However, the mitigation measure requiring off-stream storage is sufficiently comprehensive to prevent any project contribution to the potential de-watering of the North Fork of Luffenholtz Creek and/or Deadman Creek during the critical dry season period of vulnerability.

The water quality protections applicable to all projects, coupled with the complete restriction on dry-season water withdrawals for the proposed project are sufficient to ensure that the cumulative effect of the project, when considered in conjunction with nearby approved and proposed projects will be **less than significant**.

4.2.3.2 Cumulative Impacts to the Water Supply of the City of Trinidad

As described in Chapter 3, upon full buildout of the City of Trinidad General Plan, the Trinidad municipal water system is expected to withdraw approximately 160 gpm from Luffenholtz Creek on the peak day of the month with the greatest demand. Downstream users account for an additional 3 gpm, with 112 gpm reserved for habitat values. The dry year flow at the City of Trinidad intake without the project is estimated to be 290 gpm, leaving a total of 15 gpm “unassigned” and available for additional users. The project accounts for approximately 1.1 gpm, reducing the unassigned flows to 14 gpm. Development of additional properties in the Luffenholtz Creek watershed has the potential to further reduce flows upstream of the City of Trinidad water intake by approximately 11 gpm, leaving 3 gpm unassigned, even under quite conservative estimates of future demand. This also continues the approach established in the Water Supply Study (Appendix N) of assuming that “normal” year habitat flows should be maintained even in dry years.

Nonetheless, the Luffenholtz Creek watershed has been recognized as the City of Trinidad’s “Critical Water Supply Area” per §3362 of the Humboldt County General Plan (Framework Plan). The Framework Plan defines these areas as those “used by a specific municipality or community for its water supply system, which is so limited in area that it is susceptible to a potential risk of contamination from development activities.” While water quality concerns with

regard to the project have been determined by the appellate court to have been adequately described in the 1995 Initial Study (Appendix A), the status of Luffenholtz Creek as a Critical Water Supply Area requires the County to provide assurance that adequate water supplies will continue to be available as development occurs within the Luffenholtz Creek watershed. This fact is critical to the issue of cumulative impact from this new development.

Additionally, Section 3361.3 of the Humboldt County General Plan establishes the following policy: ***Ensure that the intensity and timing of new development will be consistent with the capacity of water supplies.***

Further subdivisions in the Luffenholtz Creek watershed could have an impact on the capacity of water supplies by altering the water flow characteristics, changing land uses, and changing water demands on the limited water supply that is available within the watershed. While domestic water wells may be a viable alternative for some potential development, to date, no data has been developed to estimate the capacity of groundwater supplies, recharge rates or the potential for groundwater overdraft. Newly created parcels may benefit from certain riparian water rights which could reduce in-stream water flows.

Section 3362 of the Humboldt County General Plan, which defines Critical Water Supply Area as noted above, further states that development proposed within such areas shall demonstrate that no risk of contamination to the water supply area would occur due to the development activity proposed. While not specifically addressed in that policy, the lead agency has elected to adopt a similar threshold for the assessment of the potential cumulative risk that development would reduce water supplies for the City of Trinidad.

Future discretionary development within the Luffenholtz Creek critical water supply area would be required to demonstrate that there would be no impact on the City of Trinidad water supply and demonstrate no risk of contamination to the water supply due to development activity proposed. To address this potential cumulative impact category, the following mitigation is proposed.

4.2.3.3 Determination of Significance (without mitigation)

In the absence of mitigation, the proposed project would have a ***significant cumulative effect*** on the water supply for the City of Trinidad.

4.2.3.4 Mitigation Measures

EIR MM 4: Prior to approving additional discretionary approvals for development in the vicinity of the subject site, the County of Humboldt shall identify all parcels within the Luffenholtz Creek Critical Water Supply Area (CWSA) and adopt a policy to require that any proposed future development of residential units within this area shall demonstrate that such development

will not reduce in-streams water flows below that necessary for maintaining anticipated demand for the Trinidad Water System and minimum pass-by flows to maintain habitat value in the stream for fish and other species.

4.2.3.5 Effectiveness of Mitigation Measures

As the implementation of Mitigation Measure CI.1 will ensure that estimates of the water supply available to the City of Trinidad at the Luffenholtz Creek intake, continue to demonstrate adequate capacity to meet future needs as well as allocations for habitat, downstream users and upstream development, including the proposed project and nearby approved and proposed projects, following mitigation, the cumulative effect of the project to the water supply of the City of Trinidad will be **less than significant**.

Michael E. Wheeler
County of Humboldt
Community Development Services
Planning Division
3015 "H" Street
Eureka, CA 75501

Subject: Evaluation of Luffenholtz Creek Diversion Capacity – Trinidad Water System & Proposed Moss Minor Subdivision Project

Dear Mr. Wheeler:

This letter report presents an evaluation of the potential impacts of the Moss Minor Subdivision project (Project) to Luffenholtz Creek and its downstream water users – particularly the City of Trinidad. Included herein are findings based on our review of the following:

- City of Trinidad’s historic diversion from Luffenholtz Creek from 1997 to 2008;
- Evaluation of Supply and Demand of Trinidad Water System letter report prepared by Winzler and Kelly Consulting Engineers issued January 24, 1995;
- A letter from the City of Trinidad Public Works Director Bryan Buckman, received June 4th, 2009;
- City of Trinidad General Plan, Housing Element dated May, 1997
- Water system production and metered delivery records provided by the City of Trinidad Public Works Department from 1997 to 2008
- Brown & Caldwell/SHN Consulting Engineers & Geologists, Inc., *Martin Slough Interceptor Project – Basis of Design Report and Ten Percent Design. March, 2004.*

Findings in this report are based on water system production and distribution data recorded from January 1997 through December 2008; as well as an estimation of the additional creek diversion needed to supply the proposed Moss Minor Subdivision parcels. The results of this analysis will be used to assess the impacts of the Project to the City of Trinidad’s continued capability to divert sufficient water from Luffenholtz Creek to meet system demands.

The Project – Moss Minor Subdivision

The proposed project is located in Humboldt County, approximately one mile east of the City of Trinidad, on both sides of Fox Farm Road, approximately 0.91 mile northeast from the intersection of Fox Farm Road with North Westhaven Drive, on the properties known as 900, 1180, 1190 and 1199 Fox Farm Road. The project applicant proposes to divide an approximately 94 acre parcel into four parcels ranging from 20.11 acres to 32.11 acres with the expectation that the lots will subsequently be developed in conformance with the County General Plan and Zoning Ordinance. The General Plan land use designation for the site, as shown in the North Humboldt General Plan (NHGP) is split with the southerly approximately 20 acres of the site designated as TIMBER; RECREATION and the northerly approximately 74 acres designated as DISPERSED HOUSES; TIMBER.

The site is within the Exclusive Agriculture (AE) Zone which permits a maximum of one residential unit per parcel. Three of these proposed parcels are adjacent to Luffenholtz Creek and would obtain water from a diversion prior to the City of Trinidad's raw water intake structure; the fourth proposed parcel is adjacent to Dead Man Creek – a separate drainage which does not impact flows in Luffenholtz Creek and is not included in the scope of this study.

Project water demand was estimated based on the demand per service connection established for the City of Trinidad – 327 gallons per day (see City of Trinidad Water Use, below). The Project consists of up to three additional residential homes obtaining water from Luffenholtz Creek, resulting in an average day demand of 981 gallons per day (0.3 percent of the dry-weather available creek flow); and a maximum day demand of 1,570 gallons per day (0.5 percent of the dry-weather available creek flow). The estimated annual diversion is 358,065 gallons per year.

City of Trinidad System Description

The City of Trinidad's water system currently consists of a 180 gallon per minute (259,200 gallons per day) capacity surface water treatment plant. Raw surface water is collected from Luffenholtz Creek and treated by direct filtration and chlorination. The distribution system consists of approximately 13 miles of predominantly asbestos-cement piping and includes two 150,000 gallon redwood storage tanks. The system serves 315 metered connections and 5 unmetered connections. As stated in the attached letter from the City of Trinidad Director of Public Works Bryan Buckman, current system improvement activity includes system-wide leak detection which has already identified and repaired a significant leakage estimated at 20 gallons per minute (28,800 gallons per day) in October of 2008.

City of Trinidad Supply

LACO Associates (LACO) accepts the assessment of the available water diversion from Luffenholtz Creek as presented in the attached 1995 Winzler and Kelly letter report. This letter report establishes a baseline minimum available creek flow rate of 220 gallons per minute from Luffenholtz Creek identified in the excerpt of the report, below:

“...Two previous studies of Luffenholtz Creek flows were researched in the development of this report: the Trinidad water supply feasibility study performed in 1968-69 by Winzler & Kelly and the 1980 report by the Citizen's Committee on Water. The 1968-69 report measured flows of 480 gallons per minute in Luffenholtz Creek and predicted 100 year return low flows of 290 gallons per minute. The 1980 study increased the 100 year return low flow to 300 gallons per minute and presented flow rate measurements of 310 gallons per minute that were made in Luffenholtz Creek in 1977, a year widely recognized as one of the driest in California history.

After comparing the 1994 stream flow measurements with those reported in previous studies, it was concluded that 290 gallons per minute is the best value for predicting low flow in Luffenholtz Creek.

California Department of Fish and Game minimum allowable fish flows in Luffenholtz Creek were documented in the 1980 Citizen's Committee report as 112 gallons per minute for normal years and 67 gallons per minute for dry years. Water appropriation rights below the Trinidad water plant were also documented in the report as totaling less than 3 gallons per minute. Combining these values with the established dry year flow of 290 gallons per minute leaves 220 gallons per minute available for the City to use in dry years (if the lower fish flow value is implemented).
-Winzler & Kelly, 1995

In summary, a minimum creek flowrate of 67 gallons per minute is required to maintain fish habitat in the creek in "dry" years, and 112 gallons per minute in "normal" years. The 100-year return low creek flow has been established at 290 gallons per minute.

For the purpose of this evaluation, LACO Associates establishes the Available Creek Flow (ACF) as the 100-year return low flow of 290 gallons per minute, less the normal-year fish passage flow of 112 gallons per minute and the 3 gallon per minute water appropriation below the City of Trinidad. This results in an ACF of 175 gallons per minute (252,000 gallons per day; 91,980,000 gallons per year) – the most conservative estimate of water available to Trinidad based on existing Luffenholtz Creek flow data.

City of Trinidad Water Use

The California Code of Regulations Title 22, Chapter 16 CALIFORNIA WATERWORKS STANDARDS (hereinafter referred to as the Waterworks Standards), Article 2 *Permit Requirements*, Section 64554 New and Existing Source Capacity requires that at all times a public water system's water source(s) shall have the capacity to meet the system's maximum day demand (MDD). Trinidad, having a treatment capacity of 180 gallons per minute, is therefore assumed to have a supply capacity of 259,200 gallons per day.

Water use records over the study period (1997 to 2009) were analyzed to determine a peaking factor and maximum day demand. Peak day usage was calculated in accordance with the methods prescribed in the Waterworks Standards for extrapolating maximum daily demand from monthly total water delivery records.

Over the study period, the maximum monthly metered water demand was 3,243,000 gallons in July, 2006 (note that the maximum month did not occur in the maximum year). This gives an average daily demand during the maximum month of 104,613 gallons per day; 40 percent of the treatment plant capacity and 42 percent of the volume available for diversion from Luffenholtz Creek. The system served a total of 320 service connections in 2006 according to system records. Dividing the total volume of metered deliveries by the total number of service connections yields an average daily demand (ADD) of 327 gallons per day per service. *Water-Resources Engineering, 3rd Ed.* (Linsley, R., and Franzini J.; McGraw-Hill, 1979) and *Wastewater Engineering: Treatment Disposal Reuse, 2nd Ed.* (Metcalf & Eddy, Inc.; McGraw-Hill, 1979) put the average daily per-capita water use at 160 and 166 gallons per day, respectively. The City of Trinidad average household size is 1.85 persons per household (U.S. Census Bureau, Census 2000 Demographic Profile). This puts the average daily demand per service at 307 gallons per day. Other local water purveyors, Humboldt

Community Services District and the City of Eureka have determined their average day demand per service connection (residential) at 256 gallons per day and 243 gallons per day, respectively (Brown & Caldwell/SHN Consulting Engineers & Geologists, Inc., *Martin Slough Interceptor Project – Basis of Design Report and Ten Percent Design*. March, 2004). Given that the calculated value of 327 gallons per day based on Trinidad’s system records is the most conservative, 327 gallons per day will be used as the City of Trinidad’s ADD per service connection.

In order to estimate maximum daily demand (MDD), the Waterworks Standards require multiplying the ADD by a peaking factor of at least 1.5. Peaking factors typically vary system to system – therefore LACO assessed the peaking factor using the following methods:

1. Calculated Peaking Factor

Based on Trinidad’s water system records from 1997 to 2008, a peaking factor of 1.6 was calculated by dividing the average monthly demand over the entire period by the maximum monthly demand observed over the same period (3,243,000 gallons).

2. Correspondence with the City of Trinidad

The City of Trinidad letter of June 4, 2009 provided a value for average day demand of approximately 90,000 gallons per day, and value for maximum day demand of approximately 160,000 gallons per day. This equates to a peaking factor of 1.8.

3. Literature Review

Water-Resources Engineering, 3rd Ed. (Linsley, R., and Franzini J.; McGraw-Hill, 1979) and *Wastewater Engineering: Treatment Disposal Reuse*, 2nd Ed. (Metcalf & Eddy, Inc.; McGraw-Hill, 1979) both site typical maximum day demand peaking factors for water consumption at 1.8.

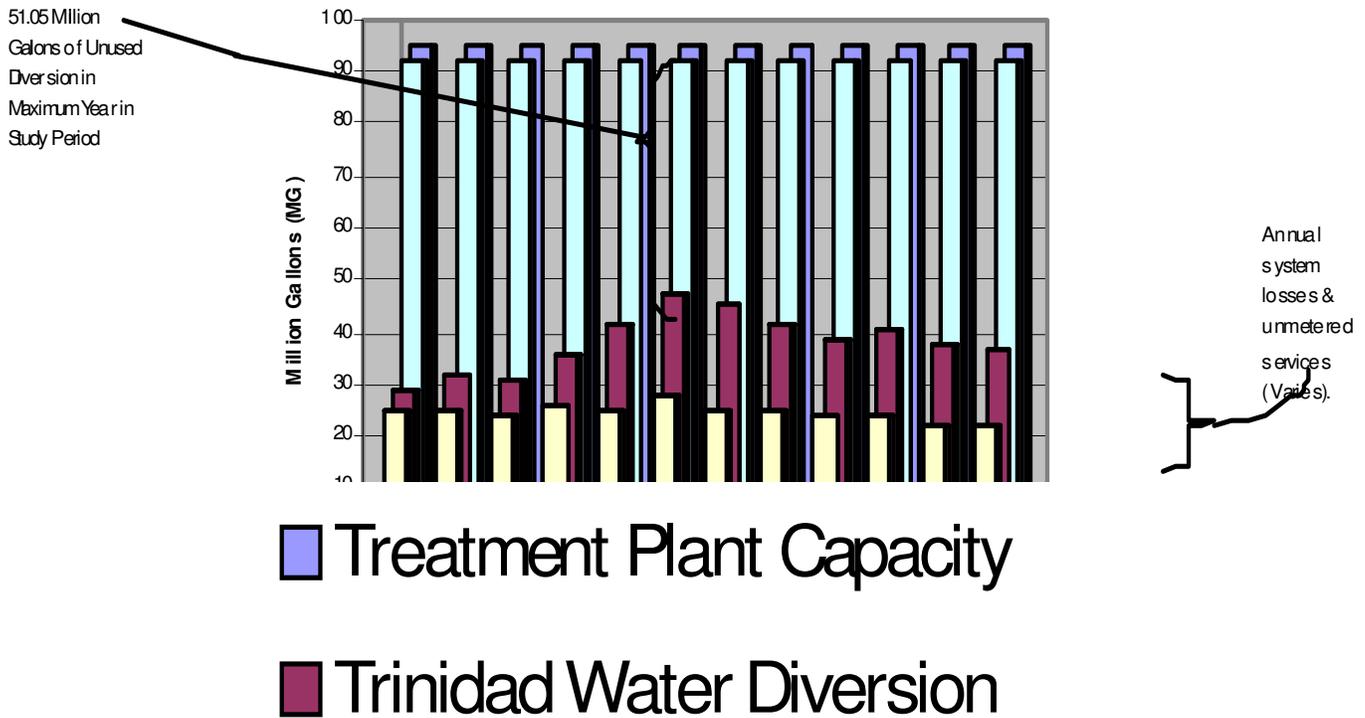
The agreement between the City of Trinidad’s estimate and published literature suggests that a maximum day peaking factor of 1.8 is appropriate for estimating the MDD for the purpose of this investigation.

Applying this peaking factor to the ADD yields a MDD of 589 gallons per day per service connection and a system-wide demand of 188,352 gallons per day under the maximum day condition. Maximum day conditions equate to 75 percent of the total available diversion from Luffenholtz Creek and 72 percent of the treatment plant’s capacity - meeting California Title 22 source capacity requirements. Capacity to meet peak hour demand (PHD) is provided by the two 150,000 gallon redwood storage tanks. The Waterworks Standards require that systems have sufficient capacity from water sources and/or storage reservoirs to meet four hours of peak demand – estimating peak hour demand conservatively as 2.0 times the MDD gives an instantaneous flow rate of 262 gallons per minute (system-wide) or a four-hour volume of approximately 63,000 gallons. Accounting for the source water contribution of 180 gpm from the treatment plant, the estimated volume of storage needed to meet PHD is approximately 20,000 gallons.

Figure 1 shows the City of Trinidad’s annual water diversion and metered deliveries as compared to the City’s treatment plant capacity and the ACF. Note that the difference

between the City's annual water diversion and metered deliveries is attributed to system leakage and also includes a total of five un-metered connections. The City is currently implementing a leak identification and repair program which aims to reduce the total diversion bringing it more in-line with actual system usage. City of Trinidad Director of Public Works indicated that in October of 2008, a 28,800 gallon per day leak was identified and repaired, equivalent to saving 28 percent of the City's average daily demand during the maximum month in the study period and reducing the City's creek diversion by 11 percent of the available creek flow.

FIGURE 1
Total Annual Water Production and Deliveries; Plant Capacity and Available Diversion
1997 - 2008



Luffenholtz Creek Supply Capacity

The ACF from Luffenholtz creek (dry weather conditions, normal-year fish flow) has been established at 175 gallons per minute, or 91,980,000 gallons per year for the purpose of this assessment. Table 1 shows the proportion of flow diverted to the City of Trinidad over the period of study (including the 3 gallon per minute appropriation rights downstream of Trinidad referenced in the 1995 Winzler and Kelly report) as compared to the ACF to establish a total annual diversion pre-project:

Table 1: Percentage of Total Available Flow Diverted From Luffenholtz Creek (Pre-Project).

Year	Total Available Diversion* (Gallons/Year)	City of Trinidad Total Diversion (Gallons/Year)	3 GALLONS PER MINUTE Water Appropriation Below Trinidad (Gallons/Year)	Total Annual Diversion (Percent)
1997	91,980,000	28,943,000	1,576,800	33.2%
1998	91,980,000	31,468,000	1,576,800	35.9%
1999	91,980,000	30,925,000	1,576,800	35.3%
2000	91,980,000	35,952,000	1,576,800	40.8%
2001	91,980,000	40,973,000	1,576,800	46.3%
2002	91,980,000	46,933,000	1,576,800	52.7%
2003	91,980,000	45,079,000	1,576,800	50.7%
2004	91,980,000	41,804,000	1,576,800	47.2%
2005	91,980,000	38,147,000	1,576,800	43.2%
2006	91,980,000	40,555,000	1,576,800	45.8%
2007	91,980,000	37,346,000	1,576,800	42.3%
2008	91,980,000	36,806,000	1,576,800	41.7%

* “Available Diversion” is the ACF of 175 gallons per minute.

As demonstrated in Table 1, the City of Trinidad’s three-hundred-plus service connections utilized no more than 53 percent of the water available in Luffenholtz Creek over the period of study. Figure 2 provides a graphical representation of the City of Trinidad’s total annual diversion and the maximum day demand (based on the average daily diversion over the year multiplied by the peaking factor of 1.8) as a percentage of the available dry weather flow from Luffenholtz Creek.

FIGURE 2
Annual and Calculated Maximum Day Diversion From Luffenholtz Creek
1997 - 2008

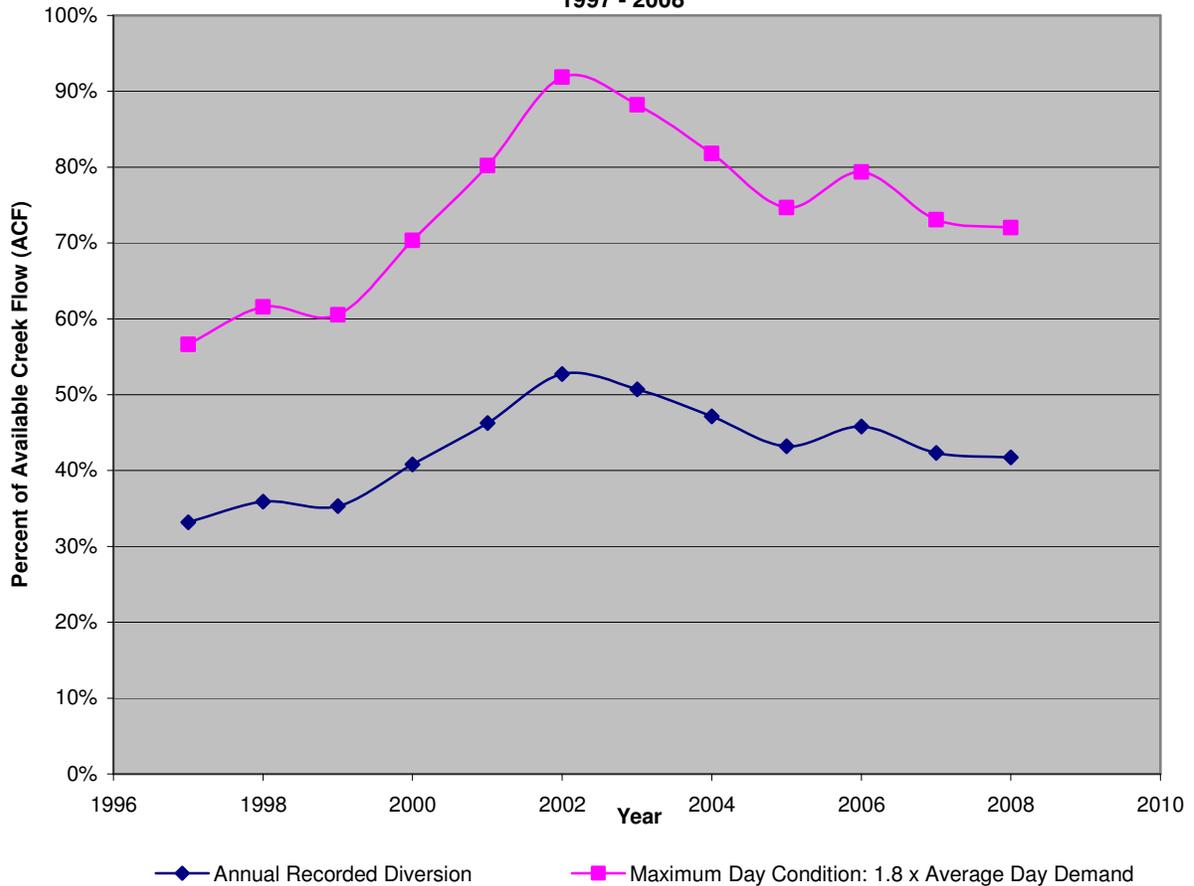


Figure 2 identifies a slight trend of decreasing diversion between 2002 and 2008. This could be attributed to system maintenance and water conservation efforts (e.g. low flow plumbing fixtures); however no specific mechanism was identified in the available data.

Projected Future Demand – City of Trinidad

In order to fully assess the potential impacts of the Project to the City of Trinidad’s source of supply, LACO first looked at trends in City’s water use records. As mentioned above, a trend of decreasing annual diversion is evident over the period of study but this trend is not solely representative of a continued reduction in water consumption, but also likely attributed to system maintenance and repairs reducing water loss in the system demonstrated in Figure 1. Therefore, assessment of long-term impacts was based on the *City of Trinidad General Plan, Housing Element, May 1997* – the most current housing element adopted by the City (an update to the Housing Element is currently being prepared by Streamline Planning of Arcata, California; however the assessment of potential for City growth had not been completed at the time of this report). It should be noted that the City served 319 metered service connections in 1997, 315 metered service connections in 2008, and 5 un-metered connections throughout the period of study.

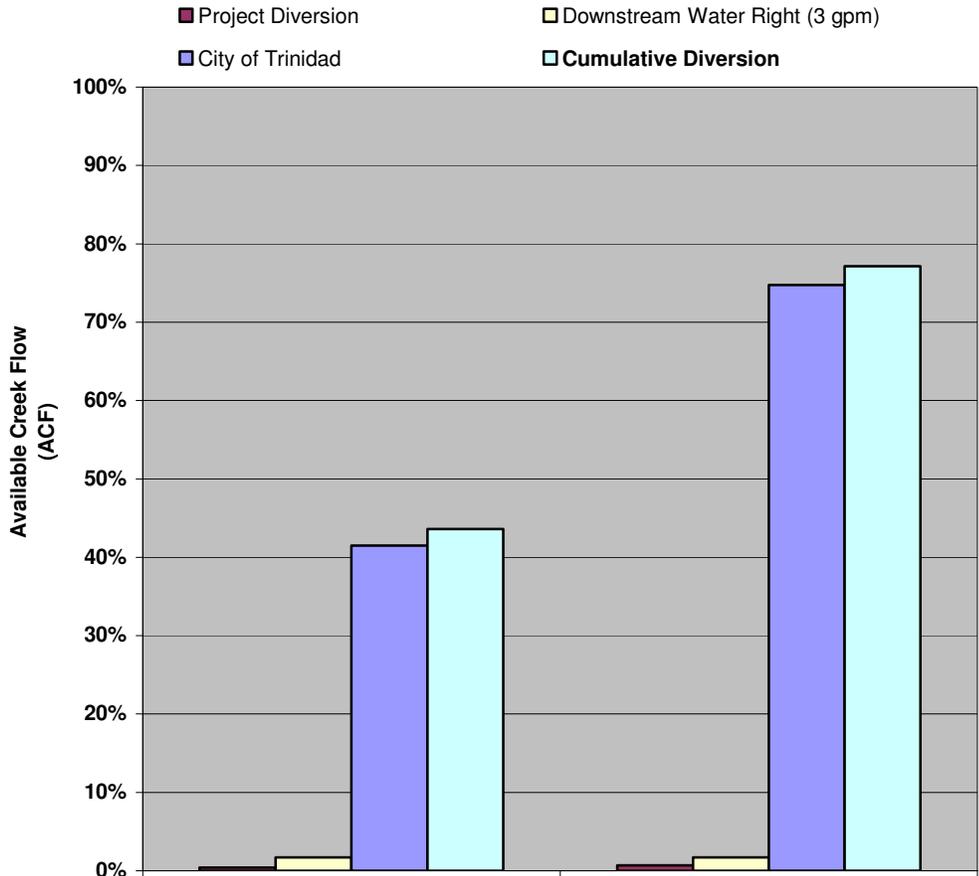
Future increase in service demand was evaluated based on the City's General Plan, page 26 of the Housing Element, Table 18 *Inventory of Land Available for Residential Development by Land Designation and Zoning District*. The Housing Element Table 18 indicates that up to 64 additional residential units could be constructed within the City limits based on existing undeveloped lots at the time of the report. Assuming all 64 units are served by the City of Trinidad's water system, the total number of service connections at build-out would be 391. Based on the average day demand of 327 gallons per day per service and including water appropriations below Trinidad (4,320 gallons per day), the average daily demand at build-out would be 132,177 gallons per day – 51.0 percent of the City's treatment plant capacity and 52 percent of the ACF. Under maximum day conditions, and using the calculated peaking factor of 1.8, the maximum daily demand at build-out would be 230,299 gallons per day – 88.8 percent of the treatment plant capacity and 91.4 percent of the available creek flow.

The Project would add an additional three service connections up-stream of the City of Trinidad's diversion – for the purpose of assessing impacts to Trinidad's supply the three services are treated as a reduction in the ACF. The net reduction under average day conditions is 981 gallons per day (0.4 percent of the ACF); and under maximum day conditions the available creek flow is reduced by 1,766 gpd (0.7 percent of the ACF). Factoring the Project into the average day and maximum day supply capacity assessment, at build-out, shows that the City of Trinidad would use 52.8 percent of the ACF (with Project) under average day conditions; and 92.0 percent of the ACF (with Project) under maximum day conditions.

Summary of Moss Minor Subdivision Impacts on Trinidad's Supply

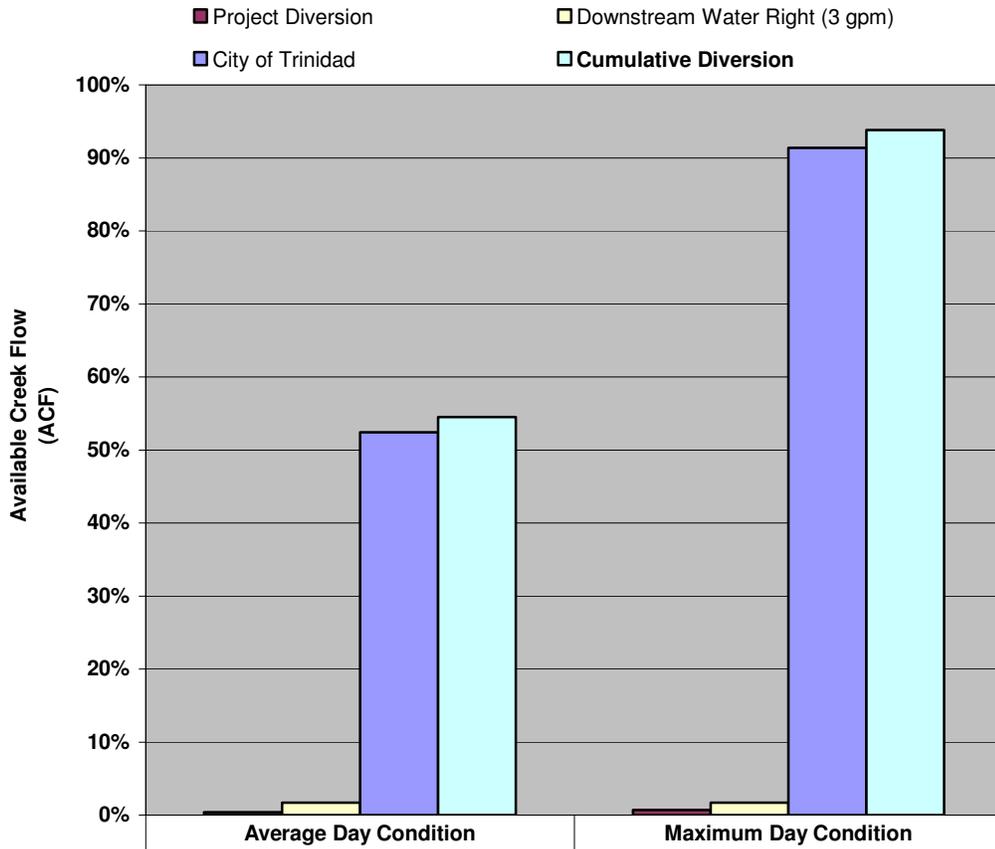
Figure 3 presents a summary of diversions from Luffenholtz Creek as a percent of the ACF based on current conditions. Figure 4 presents the same summary under the projected build-out scenario.

FIGURE 3
Summary of Luffenholtz Creek Diversions vs. Available Creek Flow (ACF)



	Average Day Condition	Maximum Day Condition
■ Project Diversion	0.4%	0.7%
■ Downstream Water Right (3 gpm)	2%	2%
■ City of Trinidad	42%	75%
■ Cumulative Diversion	44%	77%

FIGURE 4
Summary of Luffenholtz Creek Diversions vs. Available Creek Flow (ACF) At Build-Out



	Average Day Condition	Maximum Day Condition
Project Diversion	0.4%	0.7%
Downstream Water Right (3 gpm)	2%	2%
City of Trinidad	52%	91%
Cumulative Diversion	55%	94%

As shown above, the maximum of three additional service connections associated with the Moss Minor Subdivision will constitute less than a 1% reduction in the water available to the City of Trinidad under 100-year return low-flow conditions in Luffenholtz Creek even when assuming normal year fish flow allocation of 112 gallons per minute. Over the period of study, the City of Trinidad withdrew an annual volume of 42% of the available diversion in the maximum year between 1997 and 2008. Under a maximum day demand scenario, the City of Trinidad’s water use did not exceed 75 percent of the ACF. Based on the growth potential outlined in the City’s General Plan, at build-out the City would use only 52.8 percent of the ACF under typical conditions and up to 94 percent in a maximum day scenario. It should be noted that even under maximum day demand conditions at build-out, sufficient ACF exists to replenish storage reservoirs from peak hour demands as well as meeting MDD. Given that the Project reduces the creek flow available to Trinidad by a fraction of one percent under 100-year return low-flow conditions in Luffenholtz Creek, it is clear that the additional 3 residential units associated with the Project will have no detrimental impact to the City’s ability to supply water. In fact, these results demonstrate

that under maximum day conditions the system source capacity alone could support over 104 additional services. Lastly, this assessment did not account for the 45 gallon per minute dry-year reduction of dedicated stream flow for fish passage – equivalent to an increase in ACF of 40 percent; at which point treatment plant capacity would limit the service connection capacity to 120 additional services.

P:\7000\7076 - Moss Parcel Map Subdivision - SEIR\10 Civil\Water Supply Assessment.doc

SUPPLEMENTAL INFORMATION No. 2

For Planning Commission Agenda of:
November 3, 2011

<input type="checkbox"/>	Consent Agenda Item	}	
<input checked="" type="checkbox"/>	Continued Hearing Item	}	
<input type="checkbox"/>	Public Hearing Item	}	No.
<input type="checkbox"/>	Department Report	}	
<input type="checkbox"/>	Old Business	}	

Re: **Moss Parcel Map Subdivision; File No. 515-131-32 and 515-291-46;
Case No. PMS-03-14**

Attached for the Planning Commission's record and review is (are) the following supplementary information item(s):

1. Proposed new Condition of Approval for Vegetation Retention.
2. Email correspondence dated 9-08-11 from the City of Trinidad stating that the Rancheria plans call for reducing their dependence on City water through wells and rainwater catchment.
3. Memo from the City of Trinidad City Planner, Trever Parker to the Trinidad Planning Commission dated 7-15-11 regarding the Rancheria Master Plan stating that for water use – the Rancheria currently uses City water, but the documents propose a decrease in reliance on City water by utilizing rainwater catchment and onsite wells.
4. Brochures which detail the possible sizes of approximately 40,000 gallon water tanks.
5. Comment letter and petitions from Sunnorne Madrone and Friends of Westhaven and Trinidad.

Condition of Approval for Vegetation Retention

Proposed new Condition of Approval No. 11

11. The portions of each lot where clearing of vegetation may occur shall be restricted to three acres which include the sites of the proposed building footprints, driveways, and septic systems/leach fields, plus 100 feet from each residence as may be required per fire-safe regulations. The remainder of each lot shall be maintained with the existing mature trees, wetlands, and riparian and understory vegetation, and a notation requiring preservation of the trees in this remainder area of each lot shall appear on the development plan.

Wheeler, Michael

From: Trinidad City Manager [citymanager@trinidad.ca.gov]
Sent: Thursday, September 08, 2011 9:55 AM
To: Wheeler, Michael
Subject: FW: Moss Subdivision

Here's what little we know re your question.

From: Trever Parker [mailto:trever@streamlineplanning.net]
Sent: Thursday, September 08, 2011 9:40 AM
To: Trinidad City Manager
Subject: Re: Moss Subdivision

I am not familiar with the City's contract with the Rancheria and whether the City has to approve increases in their water use. But I am pretty sure there is nothing official regarding the hotel. It is still in the early planning stages, and the Rancheria plans call for reducing their independence on City water through wells and rainwater catchment, but they have not done real feasibility studies of this.

Something else of interest that I just ran across when researching septic stuff was that per unit water use in Trinidad is fairly low due to the high number of vacation rentals that are mostly vacant in winter and second homes. If these houses were to become permanent residences again, the water use could substantially increase. Let me know if you want me to crunch some specific numbers.

Trever Parker - trever@streamlineplanning.net
Streamline Planning Consultants
1062 G Street, Suite I
Arcata, CA 95521
(707) 822-5785 fax (707) 822-5786
www.streamlineplanning.net

From: "Trinidad City Manager" <citymanager@trinidad.ca.gov>
To: "Trever Parker" <trever@streamlineplanning.net>
Sent: Wednesday, September 7, 2011 2:50:21 PM
Subject: FW: Moss Subdivision

Trever? What do you know about this?

From: Wheeler, Michael [mailto:MWheeler@co.humboldt.ca.us]
Sent: Wednesday, September 07, 2011 2:48 PM
To: Trinidad City Manager
Subject: RE: Moss Subdivision

Does the City of Trinidad have any plans to sell additional domestic water to the rancheria for a hotel? If so, how much and when? Thanks.

-----Original Message-----

From: Trinidad City Manager [mailto:citymanager@trinidad.ca.gov]
Sent: Wednesday, September 07, 2011 12:35 PM
To: Wheeler, Michael
Cc: 'Trever Parker'

10/24/2011



MEMORANDUM

TO: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: July 15, 2011

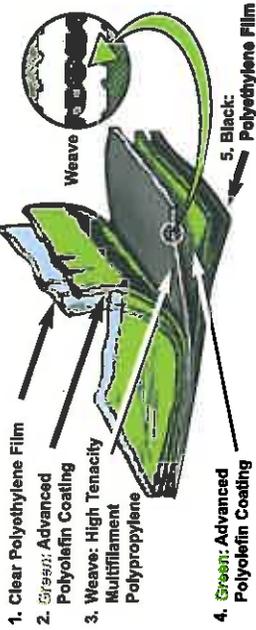
RE: July meeting agenda items

1. Rancheria Master Plan Comments: I know this is short notice, and some of you are new, but this is an important opportunity. The Trinidad Rancheria has recently come out with a draft of their Comprehensive Community-based Plan and associated Integrated Development Standards. The draft is available for comment until August 1, 2011. The Comprehensive Plan is analogous to the City's General Plan, which is very general, and the Design Standards are similar to a zoning ordinance. I have only had a few days to review the documents myself, and have not prepared detailed comments at this point. However, I will be working on preparing some, and would like to seek any input from the Planning Commission. Several significant developments are proposed, including a new freeway interchange, hotel, gas station, retail and others; only modest development is proposed in the harbor area. I think a lot of the policies and standards in the document are very good, and would consider using some in a future Trinidad zoning ordinance update, but the proposed developments will impact the City. Do keep in mind that the Rancheria itself (as opposed to the harbor area) is sovereign land, though subject to federal laws, and the City may not have a lot of influence other than through mutual cooperation and benefits. Also, any of these large projects would have to go through a review process if and when formally proposed. I have included the documents for review in this packet, and have included a list of issues below that I think are important to the City.
 - Procedural – what was the process to decide the preferred list of projects, are there feasible alternatives that would accomplish the same goals, what are the impacts to the City and surroundings from the proposal
 - Economic – potentially drawing people directly to the Casino and taking business from the gas station and retail in town; conversely, could be an overall draw bring more people to the area in general
 - Traffic – the interchange and large developments such as the hotel could alter traffic patterns in and around town
 - Wastewater / septic – this is obviously a sensitive issue throughout the area, and the Rancheria does address it in these plans; I am not familiar with their existing wastewater treatment plant, but they also utilize septic

- Water use – the Rancheria currently uses City water, but the documents propose a decrease on the reliance of City water by utilizing rainwater catchment and onsite wells
 - Visual – impacts include tall buildings (up to 4 stories near the casino), loss of vegetation that would expose more development (though away from the casino area, the Rancheria encourages tree preservation)
 - Bluff stability and stormwater – these are generally addressed with BMPs (best management practices), LID (low impact development), and other standards
 - Lighting – light pollution is an existing concern to the City and additional lighting could further impact the night sky; the document does include pretty strong standards to protect the night sky by minimizing lighting and light pollution
 - Notification - the proposed notification area is a generous 500 ft. from projects, but I think the City should get a specific referral for large projects.
2. General Plan update: For the new Commissioners, the best way to familiarize yourself with the General Plan would be to review as much as you can of the existing draft documents available on-line. In particular, the introduction chapter will give you background as to the purpose and requirements of a general plan, and how the draft plan is being organized. Here is the link: <http://www.trinidad.ca.gov/documents-library/category/21-amended-general-plan.html> The General Plan will guide development in the City and revision of the zoning and other associated ordinances on a 20 year planning horizon. The General Plan consists of various 'elements', some of which are required by the State. The Planning Commission is currently in the process of finishing up the Circulation Element, and the current version has been provided with this packet. At this point, it is the energy section and the figures mainly that still need some work. Note that changes from the last meeting are shown as underlined for additions and strikethroughs for deletions.

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XL08/02	15' 4"	7' 3"	9,998
XL13/02	19' 9"	7' 3"	12,528
XL15/02	21' 11"	7' 3"	20,404
XL20/02	24' 2"	7' 3"	24,689
XL23/02	26' 4"	7' 3"	29,382
XL30/02	30' 8"	7' 3"	39,993
XL40/02	35' 1"	7' 3"	52,235
XL50/02	39' 6"	7' 3"	66,110

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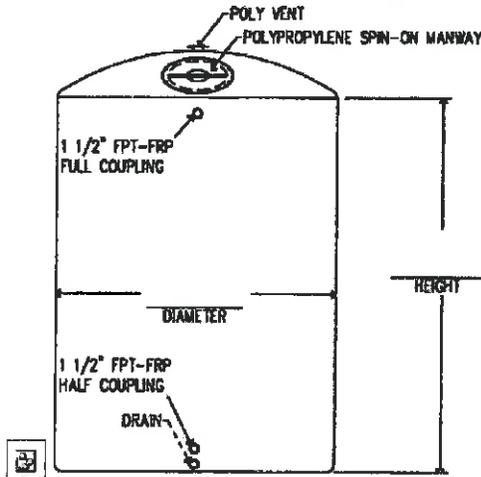
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* Marked fields are required.

Qty*

Price \$23,500.00

October 18th, 2011

Re: Moss Subdivision

Dear Planning Commissioners:

We, the Friends of Westhaven and Trinidad, request a denial of the Moss project due to its unmitigated impacts to the City of Trinidad's water supply and to threatened species of fish including Cutthroat trout.

We support the City of Trinidad's efforts to protect its water supply and to fully analyze all cumulative impacts from this proposed development. The county needs to respect local jurisdictions concerns and support their request to be able to monitor any mitigation measures applied to this project.

We request denial because the water supply analysis is incomplete as follows:

- The LACO analysis did not look at worst case scenarios as stated at the last hearing; the dry year of 1976/77 which was used for the analysis is not the driest year on record for Luffenholtz Creek;
- They did not analyze how a severe drought lasting multiple years would affect supply or how climate change might affect supply;
- They did not analyze draw down affect in the North Fork of Luffenholtz Creek even though a significant population of cutthroat trout exist on the Moss property; the draw down analysis was done on the Luffenholtz watershed as a whole. The North Fork was not analyzed separately;
- The analysis does not consider known and documented plans by the Rancheria to expand its operations, even though the Rancheria is an existing customer on the Cities supply and has very little restrictions to perfecting their development as there are a sovergn entity;
- The analysis does not consider the impacts from land conversion activities such as the illegal and unpermitted conversion of forest land to meadow on the adjacent Clanton/TLLC parcel; this is a well documented hydrologic impact in the literature;
- The dry season restrictions do not deal with impacts that would occur form withdrawal during dry periods that can happen at any time during the year;
- The currently suggested mitigation measures rely on county enforcement which is nearly non-existent due to budget constraints and therefor are inadequate to assure protection of this "critical water supply";



- The current analysis does not consider the fact the Dead Man Gulch is already dewatered as evidenced by letters in the record for property owners along that creek;

In conclusion, the analysis is incomplete and without additional enforceable mitigation measures significant environmental impacts will occur.

The attorney for Moss keeps pointing out that the Cities own study done by Winzler and Kelly in 2005 says there is enough water for many more hookups. What she fails to understand is that the LACO analysis (unlike the 2005 W&K study) tries to look at "worst case analysis". The 2005 study may indeed say there is enough water for more hookups, but the LACO analysis looks at what existing entitlements for the use of that water would look like in a dry year and concludes that the water is nearly all allocated already.

We all need to do our part in this watershed to use this limited water supply carefully and responsibly. The upper Fox Farm neighborhood has done its part. In the late 1980' we came together to rezone our properties to prevent just this type of impact on water. This was a volunteer effort and as such we gave up significant development rights and potential personal profits.

Our properties were zoned 1-acre minimums and we increased this to 3-5 acre minimums with a requirement for two acres per dwelling unit. This rezone reduced densities for the possible 100 homes to less than 30 homes significantly reducing pressure on the water supply. This is a precedent and shows the personal commitment on the part of our neighborhood to reduce development pressures in this watershed. No other example exists in Humboldt County of property owners eliminating development rights.

A comment was made at the last hearing that if folks are running out of water than they are not cooperating with each other. While this is true of the newer developments on parcels sold by the TLLC (Clanton parcel over pumping Dead Man Gulch) this is not true of our neighborhood. Several properties have already installed rainwater collection systems and more are planned. I personally share my water supply with 3 other neighbors who do not have an adequate supply. They have no other water rights, but I still share what I have with them. That is but one difference in the effect of creating clustered neighborhoods that depend on each other versus cookie cutter estate development for the rich where it is more a dog eat dog world where money rules.

Another commissioner suggested that there must be plenty of water because "the City continues to grow". While it is true that the Rancheria has grown, the City has had minimal growth and its population has in fact decreased in the last decade.

We believe that the following options exist for Moss:

As-is: 1 parcel with existing riparian rights and no land restrictions;

County Staff Rec: 4 parcels with restricted riparian rights and pumping limits, coupled with off stream storage for dry season use and enforcement by County based on annual reports and storage tank meters;

City Rec: 4 parcels with no riparian rights (thus no pumping from the stream or wells), rainwater collection and grey water irrigation, off stream storage for year round use and enforcement by county, with City inspection ability;

<i>Impacts</i>	#	# of parcels	Riparian Rights	Water source	Pumping wells/stream	Storage	Enforcement
<i>Unchanged</i>	Option 1	1 parcel	Existing	Stream or well	Existing	As desired	Existing Laws
<i>Potentially High</i>	Option 2	4 parcels	Restricted	Stream or well	Restricted	43,000 gallons	Moss metered annual reports to County
<i>No Impact</i>	Option 3	4 parcels	Vacated	Rainwater/ fog or purchase	None allowed	As needed	County and City inspect

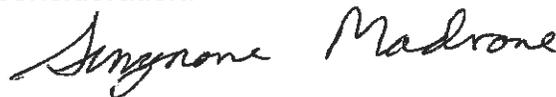
Option 3 is the only option that has good potential to fully mitigate this development. A complete elimination of riparian and well water use with the City doing the monitoring is the only way to assure protection of this already over-allocated water supply. Allocating any remaining buffer to Moss would only further impact existing users in an extended drought.

While it may bother some commissioners to suggest that the county's ability to enforce these mitigation measures is almost nill, it does not change the facts.

We support Option 3 and are prepared to take legal action to protect our communities if necessary.

Thank you for your consideration.

Sincerely,



Sungnome Madrone for the Friends of Westhaven and Trinidad

PETITION

To: Humboldt County Planning Commission

From: Residents of the Trinidad and Westhaven Areas

Re: Moss (so-called Minor) Subdivision

We the undersigned request a denial of the Moss Subdivision because:

1. The project description is in error. It is not just a 4-parcel minor subdivision, but in fact (evidenced by the actions of the applicant and its partner TLLC) it is part of a major piecemeal subdivision development that violates CEQA on many counts.
2. The Moss/TLLC combo development has both individual and cumulative impacts that have not been evaluated or mitigated including
 - a. Traffic and public safety impacts on Fox Farm Road, Westhaven Drive, and at the main Trinidad/101 intersection.
 - b. Lack of pedestrian/bicycle safety measures at all of those locations.
 - c. Water withdrawals from Luffenholtz, Dead Man, McConnahaus, and Mill Creeks in areas upslope and upstream from existing residents along lower Fox Farm, Westhaven Drive, Quarry and Stump Town Roads, whom already experience water shortfalls in late summer and early fall.
 - d. Septic pollution from 68 new homes in the built out "major subdivision" that will add to existing high pollutant levels in Luffenholtz, Dead Man, McConnahaus, and Mill Creeks and will add to pollution of the ASBS making it even more difficult for the City of Trinidad to meet the waste discharge requirements of their current cease and desist orders from the State Water Board.
 - e. Prime agricultural/timber land conversion from estate clearings spread out all over the 680 acres from 20-acre estate development.
 - f. Negative Hydrology impacts from conversion of forest-lands to meadows increasing peak runoff and turbidity in the winter and reducing summer low flows from reduced infiltration in the winter.

Name

Address

James F. Waters	1033 Stagecoach Rd, N. Trinidad
Virginia Y. Waters	1033 Stagecoach Rd, N. Trinidad
MARILENE	316 6 th Ave Westhaven
Jay Harder	1092 Timothy Rd McKinleyville CA
Carol Boyce	PO BOX 744 Trinidad CA 95570
Don Allan	821 2nd Ave Trinidad

Return
to
Sungnome
Madrone

PETITION

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Name

Address

Sungnome Madrone	1521 Fox Farm Rd., Trinidad
JOHN WEBB	703 STAGECOACH RD., TRINIDAD
Brandi Schrauger	8085 Dows Prairie, McKinleyville
Troy Perez	3685 Dows Prairie Rd McKinleyville
Dyan Eggink	183 Langford Drive Trinidad, CA
Nina Lavender	51 Midway Dr Trinidad, CA
MARIE MADRONE	Midway Dr Trinidad, CA
Larry Gallegos	1225 STAGECOACH RD, TRINIDAD, CA
JOY HARDIN	1692 TRACY RD McKinleyville
Robert Vogel	1179 Stagecoach Trinidad

PETITION

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Name

Address

<i>Oleana Madrone</i>	<i>1521 Fox Farm Rd Trinidad</i>
<i>Janis M. Waters</i>	<i>1519 Fox Farm Rd. Trinidad</i>
<i>Diane Ressler</i>	<i>1511 Fox Farm Rd Trinidad</i>
<i>Stacy Trinidad Orquiza</i>	<i>626 Patrick's Pt Dr. Trinidad</i>
<i>2000 Dominic Tr</i>	<i>P.O. Box 541 Trinidad</i>
<i>Stacy Orquiza</i>	<i>1178 STAGWOOD RD TRINIDAD</i>
<i>Kimberly Tays</i>	<i>487 View Ave, Trinidad</i>

SUPPLEMENTAL INFORMATION No. 3

For Planning Commission Agenda of:
November 3, 2011

- | | | | |
|-------------------------------------|------------------------|---|-----|
| <input type="checkbox"/> | Consent Agenda Item | } | |
| <input checked="" type="checkbox"/> | Continued Hearing Item | } | |
| <input type="checkbox"/> | Public Hearing Item | } | No. |
| <input type="checkbox"/> | Department Report | } | |
| <input type="checkbox"/> | Old Business | } | |

**Re: Moss Parcel Map Subdivision; File No. 515-131-32 and 515-291-46;
Case No. PMS-03-14**

Attached for the Planning Commission's record and review is (are) the following supplementary information item(s):

1. EIR Consultant, LACO, responses to issues raised by the Planning Commission.

Planning Commission Staff Report Supplement No. 3

SUMMARY

During the Public Hearing held on September 1, 2011, the Planning Commission asked for more information regarding several aspects of the proposed Moss Minor Subdivision and the Draft and Final EIR prepared for that project.

This supplemental submittal is intended to address the following:

- 1) The adequacy and appropriateness of the analysis of future and cumulative impacts to the water supply for the City of Trinidad pursuant to information submitted by the City of Trinidad prior to the public hearing, regarding potential hotel development at the Trinidad Rancheria.
- 2) The adequacy and appropriateness of cumulative impact mitigation measures, which refer to the future adoption of development policies for the Luffenholtz Creek watershed by the County of Humboldt.
- 3) The adequacy and appropriateness of mitigation measures prohibiting surface water withdrawals during a “dry weather” season defined as extending from August 1st to November 15th of each year.
- 4) Potential implications of future climate variability on the impacts analysis and mitigation measures.

ANALYSIS

1) Cumulative Impacts Analysis: Trinidad Rancheria Development

Background

Appendix N of the circulated Draft EIR consists of a Technical Memorandum prepared by LACO Associates to assess the City of Trinidad’s current and anticipated withdrawals from Luffenholtz Creek to supply the municipal water system. That Technical Memorandum included an analysis of anticipated future water withdrawals based on expected growth in the City to the full extent of the General Plan over the next 20 years, particularly as described in the adopted Housing Element of the City of Trinidad General Plan. Appendix O of the Draft EIR consists of a Technical Memorandum prepared by Winzler & Kelly in 2009 to address the proposed addition of a CalFire station to the City’s system under an extra-territorial services agreement. EIR Appendix O also includes an assessment prepared by LACO Associates to relate the Winzler & Kelly study to the citywide assessment in EIR Appendix N.

The Technical Memoranda prepared by LACO Associates and Winzler & Kelly support the findings in the Draft EIR that the water withdrawals associated with three additional residences upstream of the City’s water system intake on Luffenholtz Creek, will not cause a significant impact related to the municipal water supplies for current and planned development.

After circulation of the Final EIR, but prior to the September 1, 2011, public hearing, the City of Trinidad submitted a letter which referred to “a draft Comprehensive Community Plan” presented by the Trinidad Rancheria. Among other features, that plan projects a 50-plus room hotel. As the Rancheria currently receives water from the City of Trinidad, the City asserted that the project should have been addressed in the Draft or Final EIR as a “reasonably foreseeable future project.”

The Planning Commission requested an assessment of the City’s position and an appropriate response under CEQA.

CEQA Standards

a. Requirements to Respond

Section 15130 of the CEQA Guidelines (Attachment 1) establishes two alternative acceptable methods for determining the likely cumulative effects of a proposed project. The lead agency may either base the discussion on a “*list of past, present, and probable future projects producing related or cumulative impacts...*” or on “*a summary of projections contained in an adopted general plan or related planning document ...*” The Draft and Final EIR prepared for the project use both methods of analysis.

When incorporating the “list of projects” approach, the lead agency is required to use “*reasonable efforts to discover, disclose, and discuss*” (Remy, Thomas Guide to CEQA, 11th Edition, Page 471) related projects during the preparation of the Draft and Final EIR. Such reasonable efforts were conducted throughout the preparation of the Draft and Final EIR through scoping meetings with the Trinidad City Manager, correspondence with City of Trinidad and Humboldt County Staff, and public noticing. In part, to allow finality of review, the CEQA Guidelines do not require a specific response to comments received following the close of the Draft EIR review period. Further, the letter from the City of Trinidad does not clearly state that the Trinidad Rancheria intends to request additional water service from the City of Trinidad for future development, nor is there an indication of the City’s willingness or ability to provide water service at the level necessary to support the project. While the letter from the City of Trinidad notes that local agencies have little control over development within the Rancheria, no evidence has been submitted to indicate that the City has an obligation to provide an unlimited quantity of water to the Rancheria without a discretionary review process.

There appears to be no formal requirement under CEQA for the lead agency to incorporate the potential development described in the Draft Comprehensive Community Plan for the Trinidad Rancheria into the discussion of potential

cumulative effects. However, as several Commissioners requested additional information, a brief evaluation has been prepared.

b. Magnitude of Cumulative Impact

On July 15, 2011, the Trinidad City Planner presented the Draft Rancheria Master Plan to the Trinidad Planning Commission. In the accompanying Staff memorandum, the City Planner notes that *“the Rancheria currently uses City water, but the documents propose a decrease on the reliance of City water by utilizing rainwater catchment and onsite wells.”* On August 22, 2011, the City Planner submitted a letter to the Humboldt County Planning Commission which included the following. *“However, the Trinidad Rancheria has recently released copies of a draft Comprehensive Community Plan that calls for several large projects, including a 50+ room hotel, RV park, retail shops and a gas station. The Rancheria currently gets its water from the City’s system. These projects should be addressed in the cumulative impacts analysis as they will represent a significant amount of water use, and because local jurisdictions do not have authority over development on the Rancheria.”* No information has been presented which would reconcile the two disparate estimates of the potential effect of the Draft Community Plan developments to the City of Trinidad’s water system. If the July 15, 2011, report to the City of Trinidad Planning Commission is correct, the project would not contribute to a cumulative effect when considered with the Moss Minor Subdivision. If the August 22, 2011, letter to the Humboldt County Planning Commission is correct, the Trinidad Rancheria may request additional service from the City of Trinidad in the future, which could be the basis of a cumulative effect and would be subject to project specific review and analysis.

LACO Associates has estimated the water demand which may be associated with a hotel and recreational vehicle park as described in the Draft Community Plan. The RV park concept is discussed in most detail on Page 9 of the Comprehensive Community Plan. The authors note that *“to limit the demand of on-site sewage disposal (leachfields), the RV’s would be provided with a dump station rather than individual hook ups.”* A sketch is included showing an RV park layout with approximately 20 spaces. The Community Plan suggests a wide range of potential hotel developments from a boutique hotel of 50 rooms to a 130 room casino hotel, incorporating 50 rooms for resort oriented guests. For the purposes of estimating a likely cumulative effect, a mid-point estimate of 100 total overnight accommodations was assumed, generating a demand of 150 gallons of water per occupied accommodation (room or RV space) per day. Assuming a 60 percent average occupancy rate, this yields a water demand of 9,000 gallons per day or 6.25 gallons per minute. As described on Page 3-17 of the Draft EIR, the Moss Minor Subdivision project would reduce the unassigned pass by flow on the peak

day in the maximum month of a dry year from 15 gallons per minute to approximately 14 gallons per minute after full buildout of the General Plan. Incorporating the possible CalFire Station described in Appendix O and the overnight accommodation demand from a possible hotel at the Trinidad Rancheria would further reduce the unallocated available flow from 14 gallons per minute to 7 gallons per minute as follows:

Unallocated Pass-by Flows (Current):	34 gpm
<u>Anticipated Demand from Trinidad Growth (20 Years):</u>	<u>19 gpm</u>
Unallocated Pass-By Flows (With Growth):	15 gpm
<u>Anticipated Demand from Moss Minor Subdivision:</u>	<u>1 gpm</u>
Unallocated Pass-By Flows (With Growth+Moss))	14 gpm
<u>Anticipated Demand from Calfire and Rancheria</u>	<u>7 gpm</u>
Unallocated Pass-By Flows (All Uses)	7 gpm

Note that this analysis assumes that hotel development will be required to provide adequate storage either on-site or within the City of Trinidad water system to offset periods of peak demand.

c. **Cumulatively Considerable (Incremental Contribution)**

In circumstances where a proposed project would contribute to an effect which is cumulatively significant, the lead agency is next required to determine whether the incremental contribution of the project is “cumulatively considerable” (CEQA Guidelines Section 15064(h)).

With regard to the Moss Minor Subdivision, the contributions to a potential cumulative effect to the water supply of the City of Trinidad consist of the subject project, planned growth within the City of Trinidad as described in the Trinidad Housing Element and, if applicable, increased demand from users not within the City Limits as follows:

Table 2: Contributions to a Cumulative Effect

Contributing Factor	Magnitude	Proportion
City of Trinidad Growth	19.4 gpm	70%
CalFire Station	0.6 gpm	2%
Trinidad Rancheria	6.5 gpm	24%
Moss Minor Subdivision	1.1 gpm	4%
Total	27.6 gpm	100%

Recommendations

Based on the above, Staff recommends that the Planning Commission determine the following:

- a. Based on the Trinidad City Planner's July 15, 2011 memo to the Trinidad Planning Commission, which anticipates rainwater catchment and improvements in efficiency at the Trinidad Rancheria, any expansion of the Trinidad Rancheria will not likely contribute to a cumulative effect on the City of Trinidad's water supply.
- b. In the event that the Rancheria does request expanded service capacity from the City of Trinidad, and the City of Trinidad elects to use water from Luffenholtz Creek to meet that request, the proposed project will not prevent the City from accommodating all anticipated development while providing adequate pass-by flows to accommodate habitat needs.
- c. As described in the Draft and Final EIR, development within the Luffenholtz Creek watershed, including the proposed project, may have a significant cumulative effect on the water supply of the City of Trinidad.

2) **Cumulative Impacts Mitigation: Policy Development**

Background

Assuming development within the Luffenholtz Creek watershed occurs to the maximum density permitted by the Humboldt County General Plan, the Draft and Final EIR conclude that the project would contribute to a cumulatively significant effect to the water supply of the City of Trinidad. The Draft and Final EIR include a mitigation measure, which directs the County to identify all parcels within the Luffenholtz Creek Critical Water Supply Area and to adopt a policy to require a Water Supply Assessment similar to the one carried out for the Moss Minor Subdivision to be conducted for all future development in the critical water supply area.

Planning Commissioners requested an evaluation under CEQA of the appropriateness and timing of the proposed mitigation measure.

CEQA Standards

CEQA Guidelines Section 15130(c) addresses the use of land use policy as mitigation for cumulative effects as follows:

Section 15130(c): With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.

The mitigation measure provides a mechanism to ensure that any subsequent projects within the Luffenholtz watershed are evaluated for their potential effect on the water supply for the City of Trinidad. In the interim before such a policy is adopted, discretionary projects such as land divisions may require such evaluation as a component of CEQA compliance. Should the City of Trinidad receive requests for water service to development which is not contemplated within the City General Plan, Staff would recommend that the City perform a similar analysis.

Recommendation

Based on Section 15130(c), Staff recommends that the Planning Commission adopt Mitigation Measure EIR MM 4 as proposed in the Draft and Final EIR as follows:

Mitigation Measure EIR MM 4 "Prior to approving additional discretionary approvals for development in the vicinity of the subject site, the County of Humboldt shall identify all parcels within the Luffenholtz Creek Critical Water Supply Area (CWSA) and adopt a policy to require that any proposed future development of residential units within this area shall demonstrate that such development will not reduce in stream water flows below that necessary for maintaining anticipated demand for the Trinidad Water System and minimum pass-by flows to maintain habitat value in the stream for fish and other species.

3) Coastal Cutthroat Trout Impact Mitigation: Limitations to the Dry Season Surface Water Withdrawals

Background

As described in the Draft and Final EIR, both Luffenholtz Creek and Deadman Creek are potential habitat for non-anadromous populations of coastal cutthroat trout. There has been considerable study of the life-history of anadromous fish in larger rivers and streams, which has been used to support minimum "pass-by" flows to protect habitat values during the spawning season. No equivalent body of work has been identified for non-anadromous, resident populations; however, there is research which indicates that coastal cutthroat trout utilize smaller spawning streams with "low stream gradient and low flows during the summer." (NOAA-NMFS-NWFSC TM-37: Status Review of Coastal Cutthroat Trout from Washington, Oregon, and California).

In the absence of evidence to establish requirements for the maintenance of habitat flows for non-anadromous coastal cutthroat trout populations, both the Department of Fish and Game and the Technical Report identify complete de-watering of the stream during low flow periods as the most likely mechanism by which the project would affect coastal cutthroat trout. It should be noted that testimony during the public hearing on September 1, 2011, indicated that Deadman Creek may occasionally be de-watered under present (baseline) conditions. If so, this would considerably reduce the current value of the stream for habitat purposes and would reduce the potential impact of the project. However, the more conservative approach would be to accept the analysis in the Biological Assessment prepared for the Draft EIR (EIR Appendix O), which indicates that Deadman Creek retains potential habitat value for coastal cutthroat trout.

At the recommendation of both the Department of Fish and Game and the Technical Report, the Draft and Final EIR include mitigation measures intended to reduce the

potential that the project would de-water North Fork Luffenholtz Creek or Deadman Creek. Those measures consist of a maximum rate of withdrawal from each stream at all times during the year. The maximum rate of withdrawal is based on stream flow data collected on the site in 1998 (EIR Appendix E) and reviewed by the Department of Fish and Game prior to the Department's issuance of Streambed Alteration Permits (EIR Appendix D) for the construction of water diversion structures in each stream. A further mitigation measure requires the construction of water storage tanks on the site, sufficient to allow a complete prohibition on withdrawals from the streams during the driest portion of the year.

During the public hearing conducted on September 1, 2011, Planning Commissioners noted that there was some disagreement regarding the definition of the dry season. Commissioner's asked for a clearer definition of the dry season and a justification for selecting the appropriate dates for a prohibition on withdrawals. Staff has reviewed the submitted documents and determined that the Department of Fish and Game recommended the use of a similar prohibition on the Mattole River as the basis for mitigation. That agreement establishes a dry season consisting of 105 days from August 1 to November 15 each year. These dates were incorporated into the Technical Report and mitigation measure. However, in their letter dated May 7, 2009, responding to the Notice of Preparation of the Draft EIR (EIR Appendix L), the Department recommended a prohibition on withdrawals for a period of 107 days from July 1 to October 15 of each year. A review of rainfall records in Trinidad indicates that the period of July 1 to October 15 most closely matches the actual average rainfall minimums.

Recommendation

Staff recommends that the Planning Commission modify the recommended mitigation measure as follows:

EIR MM 2:

The developer/applicant shall provide dry season water storage facilities for each residence, including secondary residential units, if any. Based on the current state of knowledge regarding dry season flows in the two affected streams and the life-cycle of non-anadromous populations of coastal cutthroat trout, the risk to the species through potential de-watering of the streams at or below the subject site is sufficient to prohibit any water diversions during the dry season. As such, each residence shall provide water storage sufficient for a minimum of 107 days of independent operation from ~~August 1st through November 15th~~ *July 1st through October 15th* of each year. Each residence or secondary residential unit will be assumed to require a minimum of 400 gallons per day (pursuant to Humboldt County Framework Plan §2554.9A), to a dry season total storage requirement of 42,800 gallons. Residential water storage quantities shall be above and beyond the 2,500 gallons required by Cal Fire for developments within the State

Responsibility Area (SRA) for fire protection. Storage for both uses, however, may be provided for within one storage unit

4) **Impacts Analysis: Implications of Climate Variability**

Background

The air quality impacts of the proposed project were considered in the original 1997 Initial Study. Upon review, the appellate court determined that the 1997 Initial Study continues to apply to the project except with regard to the water supply of the City of Trinidad and impacts to coastal cutthroat trout. Based on that limitation, the Draft and Final EIR do not address the potential of the project to generate greenhouse gas emissions or contribute to global climate change.

At the September 1, 2011, hearing, Planning Commissioners requested more information regarding the CEQA determination that greenhouse gas emissions would not be addressed in the Draft EIR. Commissioners also requested information regarding the potential that global climate change may intensify the effects of the project with regard to water supply and impacts to coastal cutthroat trout.

CEQA Standards

CEQA Guidelines Section 15162 establishes the conditions under which a previously approved CEQA document may be reconsidered. Section 15162(a)(3) reads in part “*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 or the negative declaration was adopted ...*” Recent CEQA case law (*Citizens for Responsible and Equitable Development v. City of San Diego* (2011) 196 Cal.App.4th 515) indicates that greenhouse gas emissions and potential contributions to climate change are not “new information” under the meaning of Section 15162(a)(3) and should not be used to reconsider prior CEQA documents. This is consistent with the approach taken in the Draft and Final EIR.

Neither the CEQA Guidelines nor case law offer clear direction for addressing the potential that climate change may increase the environmental effects of a project, however, it is clear that such potential should not be neglected. The current state of CEQA practice is to address this potential by recommending project modifications that allow a reasonable degree of flexibility to accommodate future changes in the environment. Typical examples would be enhanced setbacks from coastal flood zones and tidal areas in anticipation of sea level rise.

It is not yet possible to predict how global climate change may affect the Luffenholtz Creek watershed; however, there is the potential that such changes may affect the timing or quantity of water available, though neither the magnitude nor the direction of such a change can be estimated. Current CEQA practice would suggest that such uncertainty

may be addressed through the use of relatively conservative assumptions regarding future water availability within North Fork Luffenholtz Creek, Deadman Creek, and Luffenholtz Creek, as described below.

Recommendations

The Draft and Final EIR incorporate a variety of conservative assumptions and mitigation measures including the following:

- Prohibits all surface water withdrawals during historically dry months as recommended by the Department of Fish and Game.
- Establishes a maximum surface water withdrawal rate in historically wetter months.
- Requires construction of substantial on-site water storage capacity. Such capacity provides flexibility to adapt to changes in water availability by accommodating rainwater catchment or similar strategies.
- Assumes that normal year habitat flows will be accommodated in dry years.
- Assumes full build-out of the City of Trinidad General Plan within 20 years.
- Does not incorporate the effects of water conservation efforts in Trinidad.
- Does not incorporate improvements to the storage capacity or delivery efficiency of the Trinidad water system.

With those conservative assumptions, Staff recommends that the Planning Commission find that the Draft and Final EIR adequately addresses the potential that climate change will affect local watersheds.

CONCLUSIONS/RECOMMENDATIONS

Based on the above analysis, Staff recommends that the Planning Commission:

- Amend the definition of “dry season” to be July 1 to October 15, rather than August 1 to November 15.
- Certify the Draft and Final EIR as amended.

Attachment 1: Cited CEQA Sections

Note: specific sections cited in the Staff Report Supplement are identified with *italics*.

§ 15064. Determining the Significance of the Environmental Effects Caused by a Project.

(a) Determining whether a project may have a significant effect plays a critical role in the CEQA process.

(1) If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR.

(2) When a final EIR identifies one or more significant effects, the lead agency and each responsible agency shall make a finding under Section 15091 for each significant effect and may need to make a statement of overriding considerations under Section 15093 for the project.

(b) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.

(c) In determining whether an effect will be adverse or beneficial, the lead agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency. Before requiring the preparation of an EIR, the lead agency must still determine whether environmental change itself might be substantial.

(d) In evaluating the significance of the environmental effect of a project, the lead agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.

(1) A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. Examples of direct physical changes in the environment are the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant.

(2) An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution.

(3) An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable.

(e) Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse

economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect.

(f) The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency.

(1) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (*Friends of B Street v. City of Hayward* (1980) 106 Cal. App. 3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68).

(2) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment but the lead agency determines that revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur and there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment then a mitigated negative declaration shall be prepared.

(3) If the lead agency determines there is no substantial evidence that the project may have a significant effect on the environment, the lead agency shall prepare a negative declaration (*Friends of B Street v. City of Hayward* (1980) 106 Cal. App. 3d 988).

(4) The existence of public controversy over the environment effects of a project will not require preparation of an EIR if there is no substantial evidence before the agency that the project may have a significant effect on the environment.

(5) Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

(6) Evidence of economic and social impacts that do not contribute to or are not caused by physical changes in the environment is not substantial evidence that the project may have a significant effect on the environment.

(7) The provisions of sections 15162, 15163, and 15164 apply when the project being analyzed is a change to, or further approval for, a project for which an EIR or negative declaration was previously certified or adopted (e.g. a tentative subdivision, conditional use permit). Under case law, the fair argument standard does not apply to determinations of significance pursuant to sections 15162, 15163, and 15164.

(g) After application of the principles set forth above in Section 15064(f), and in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

(h)

(1) When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be

significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(2) A lead agency may determine in an initial study that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. When a project might contribute to a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through mitigation measures set forth in a mitigated negative declaration, the initial study shall briefly indicate and explain how the contribution has been rendered less than cumulatively considerable.

(3) A lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program (including, but not limited to, water quality control plan, air quality attainment or maintenance plan, integrated waste management plan, habitat conservation plan, natural community conservation plan, plans or regulations for the reduction of greenhouse gas emissions) that provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared for the project.

(4) The mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable.

→§ 15130. Discussion of Cumulative Impacts.

(a) An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in section 15065(a)(3). Where a lead agency is examining a project with an incremental effect that is not "cumulatively considerable," a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

(1) As defined in Section 15355, a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts which do not result in part from the project evaluated in the EIR.

(2) When the combined cumulative impact associated with the project's incremental effect and the effects of other projects is not significant, the EIR shall briefly indicate why the cumulative impact is not significant and is not discussed in further detail in the EIR. A lead agency shall identify facts and analysis supporting the lead agency's conclusion that the cumulative impact is less than significant.

(3) An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The lead agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable.

(b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by the standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact. The following elements are necessary to an adequate discussion of significant cumulative impacts:

(1) *Either:*

(A) *A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or*

(B) *A summary of projections contained in an adopted local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect. Such plans may include: a general plan, regional transportation plan, or plans for the reduction of greenhouse gas emissions. A summary of projections may also be contained in an adopted or certified prior environmental document for such a plan. Such projections may be supplemented with additional information such as a regional modeling program. Any such document shall be referenced and made available to the public at a location specified by the lead agency.*

(2) When utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.

(3) Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.

(4) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available, and

(5) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.

(c) With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.

(d) Previously approved land use documents, including, but not limited to, general plans, specific plans, regional transportation plans, plans for the reduction of greenhouse gas emissions, and local coastal plans may be used in cumulative impact analysis. A pertinent discussion of cumulative impacts contained in one or more previously certified EIRs may be incorporated by reference pursuant to the provisions for tiering and program EIRs. No further cumulative impacts analysis is required when a project is consistent with a general, specific, master or comparable programmatic plan where the lead agency determines that the regional or areawide cumulative impacts of the proposed project have already been adequately addressed, as defined in section 15152(f), in a certified EIR for that plan.

(e) If a cumulative impact was adequately addressed in a prior EIR for a community plan, zoning

action, or general plan, and the project is consistent with that plan or action, then an EIR for such a project should not further analyze that cumulative impact, as provided in Section 15183(j).

→§ 15162. Subsequent EIRs and Negative Declarations.

(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 or the negative declaration was adopted, 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.

(b) If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subdivision (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.

(c) Once a project has been approved, the lead agency's role in project approval is completed, unless further discretionary approval on that project is required. Information appearing after an approval does not require reopening of that approval. If after the project is approved, any of the conditions described in subdivision (a) occurs, a subsequent EIR or negative declaration shall only be prepared by the public agency which grants the next discretionary approval for the project, if any. In this situation no other responsible agency shall grant an approval for the project until the subsequent EIR has been certified or subsequent negative declaration adopted

(d) A subsequent EIR or subsequent negative declaration shall be given the same notice and public review as required under Section 15087 or Section 15072. A subsequent EIR or negative declaration shall state where the previous document is available and can be reviewed.

**Summary – Moss Sub-Division Hearing November 3, 2011 Humboldt County Planning
Commission**
Richard Johnson

Bottom Line – Subdivision was approved 4-2 with conditions. (Faust and Nelson dissenting)

Side Note: During the public comment session, Jacque Hostler announced to the Commission that the Rancheria was approximately 50% complete on their development master plan including a highway interchange. She re-iterated that while the Rancheria was a sovereign nation, the Rancheria wanted to consult with the County on an inter-government basis. Faust asked if the Rancheria was planning to get water from Trinidad. Response was to utilize rainwater retention and on site wells for increased water requirements. Faust also asked about water rights on sovereign lands. Hostler said she was aware of the water rights, that there were some social and environmental injustices they were investigating as the rights for local rivers/streams were never implemented when the Rancheria was established in the 1900's. Nelson asked since the Rancheria was sovereign state, did that mean they could build a 10,000(!) room hotel with no County review. Hostler responded that the Rancheria was not planning to do that, but wants to work with County.

Moss Subdivision Hearing

LACO summarized the responses to issues raised by the Commission at the last session. See Supplemental Information Packet No 3 on commission website for details.

Commissioners questioned County attorney about what could be discussed: Appeals court issue; that only the impact to Trinidad City water supply and cutthroat trout can be discussed and how that decision applied to Trinidad letter requesting further mitigation requirements. Attorney's response was that anything in Trinidad's letter pertaining to the water supply could be discussed.

Lots of confusion and discussion regarding 2004 Trinidad City letter stating that water supply is almost maxed out, but Winzler & Kelly reports states otherwise.

Allison Jackson, Moss's agent, blamed Trinidad for successive appeals and legal fees incurred by Moss; all a result of Trinidad's misunderstanding or ignorance of the W&K report(?)

Jackson summarized Moss's position and history. Took approximately 20 minutes. Public comments were limited to 3 minutes per speaker. Sungnome and I were the only speakers.

I read excerpts from Trever's memo to clarify previous (conflicting) statements regarding the impact of the Rancheria development on Trinidad's water supply. Stated that comments from Trever's July 15 memo that the Rancheria currently uses City water, the documents propose a decrease in the reliance of City water utilizing rainwater catchment and onsite wells is simply a statement of what was proposed in Rancheria documentation and intended to summarize proposals in the Rancheria's draft Comprehensive Community –based Plan. Minutes from July

20, 2011 Trinidad Planning Commission meeting stated that the proposed project will result in additional water demand...

Some question/discussion whether the City could deny the Rancheria more water to protect exiting supplies. I responded that the Rancheria was a water customer just like anyone else who buys City water and to deny the Rancheria more water would require additional investigation and possible legal opinion.

Sungnome addressed issues of inadequate water supply analysis, potential negative effects on fish and water supply resulting from erroneous dry period dates, etc. Negative impacts related to transportation, infrastructure, cumulative impacts.

Additional comments from commissioners after public comment period:

Nelson skeptical of process to impose a no-pump period. Who is ultimately responsible for inspection of pumps, flow restrictors, etc. What is enforcement process? Matolle project, basis for proposed dry period restriction is not a good example (not clear what his concerns were and he did not elaborate).

Issue of possible remote sensing to minimize County's task to ensure compliance. Used in remote regions of the County to monitor propane tank levels. (Wasn't in final motion)

Discussion of proposed new Condition of Approval for Vegetation Retention. (restricted to 3 acres on each parcel). Not exactly certain how this will be enforced as there was some County staff confusion if this would require some sort of deed restriction, etc. Suggest referring to the final minutes for clear answer.

Questions were raised regarding the water tanks. If parcels were to be further divided, would there still be a requirement for reservoir tanks on each sub-divided parcel? County attorney answered yes.

If another land owner in area wished to install reservoir tanks what permits would be required and should there be height restrictions on the tanks. Tanks are approximately 40,000-50,000 gallons and some examples of tanks are 35 feet tall.

During motion to approve, Sungnome called for a point of order requesting that commissioners identify any conflict of interest or financial conflicts. All stated there were none, but several commissioners did indicate that they had toured the Moss property with a Moss representative.

Comments by Commissioner Faust during motion:

Requested change in the prohibition water withdrawal dates. Align with Sungnome's request. Discretionary decision to divide property, cumulative impact not addressed

Rancheria requested inter-government consultation, should wait until those consultation are in place as the county needs more information on the Rancheria development and cumulative.

Final vote 4 to 2 to approve