MEMORANDUM

TO: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: August 11, 2011

RE: Moss Subdivision

If you are unfamiliar with this project, the following is a brief overview from the Draft Supplemental Environmental Impact Statement (SEIR) that was published in July 2010.

> *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.*

The City has a long history of having concerns and commenting on this project. Most recently, the City sent a fairly detailed comment letter in response to the Draft SEIR last August. The Final SEIR has now come out for public review, and consists of the comments on the Draft and the County's responses. That document has been provided in your packet. The Draft SEIR, which contains the analysis, can be found on the County's website at the following link: http://co.humboldt.ca.us/planning/moss-draft/. Sungnome has submitted a summary of how the City's comments were and were not addressed, and I have included that in your packet. The County Planning Commission will be considering this project – approval of the Final SEIR and the Tentative (subdivision) Map – at their meeting of September 1, 2011. The City Council has requested that the Trinidad Planning Commission review the project documents and provide comments to the County from the City's perspective. One of the things that was missing from the City's last set of comments was 'substantial evidence' in the form of facts and documentation and expert testimony. The County does not really have to address the City's comments through the CEQA process unless such evidence is submitted. Sungnome Madrone will be submitting additional information that could meet this need.

Additional Background

Chapter one, subsection 1.1 (project background and history) of the DSEIR provides a good background on the project, which I have attached for your convenience. I also suggest reading the rest of the Chapter (available at the link above), sections 1-2 through 1-4 of the DSEIR for a detailed summary of the environmental review process. An application for this project was originally submitted in 1995, and no significant impacts were identified under the California Environmental Quality Act (CEQA) by an initial study in 1997. However, the subdivision approval was allowed to expire prior to finalizing it. Some lawsuits ensued, but the applicant was required to submit a new application for the same project, which was done in 2003. The County reviewed the request as a new application and completed a new environmental study that concluded there may be significant impacts. Another lawsuit was filed alleging that the original study that did not identify impacts should stand since it was the same project. The First District Court of Appeal of California found that the 1997 CEQA Initial Study did stand except for two specific issues where conditions have changed since that time. These are: (1) water supply for the City of Trinidad, and (2) impacts to coastal cutthroat trout. So keep in mind that the County, and City staff review, has been limited to these two issues, and other issues have already been settled by the Court.

CHAPTER 1 INTRODUCTION

1.1 Project Background and History

This Draft SEIR provides an analysis of the Moss Parcel Map Subdivision, a proposed division of land under consideration by the County of Humboldt. Mr. Moss, the property owner has submitted an application to divide approximately 94 acres of forested hillside land, east of the City of Trinidad into four parcels. The current consideration is expected to serve as the culmination of an application process first begun in 1995. This section is intended to provide an overview of the review process and a brief summary of associated litigation and findings to provide context for the review and for the determinations the County of Humboldt has made as the Lead Agency for this document. Additional information is available from the County of Humboldt Community Development Services Department.

1.1.1 Initial Application (1995)

Mr. Moss first applied for a division of land on August 8, 1995. County of Humboldt planning staff reviewed the application and, in accordance with the CEQA, prepared an Initial Study (Appendix A). The findings of the initial study relied, in part, on technical studies submitted with the application. The most critical of those studies to the ongoing consideration of the project was an assessment of the Water Supply of the City of Trinidad prepared by Winzler & Kelly, a Consulting Engineering Firm (Appendix B). The potential environmental impacts of the project were analyzed and Staff prepared proposed Mitigation Measures to reduce the impacts of effects found to be Significant. The Initial Study concludes with the finding that all potentially significant impacts had been mitigated to fall below the threshold of significance and that a Mitigated Negative Declaration should be prepared. The project was presented to the Humboldt County Planning Commission at a Public Hearing on November 20, 1997. The Planning Commission formalized the approval of the project, conditions of approval and the Mitigated Negative Declaration and directed Staff to file a Notice of Determination (NOD) with the Humboldt County Clerk.

An organization called “Friends of Westhaven & Trinidad” appealed the Planning Commission decision to the Board of Supervisors. The Board of Supervisors rejected the appeal on December 2, 1997, upholding the Planning Commission’s decision to approve the project and adopt a Mitigated Negative Declaration. A NOD recording the decision to adopt a Mitigated Negative Declaration was filed with the Humboldt County Clerk on January 29, 1998 (Appendix C).

“Friends of Westhaven & Trinidad” filed a petition with the courts on February 25, 1998, requesting an order to overturn the Board’s decision. While the case was under consideration by the courts, the applicant carried out several improvement projects which had been required as conditions of approval of the tentative map. Those improvements included the widening of Fox Farm Road, conducted under an encroachment permit issued by the County of Humboldt, and the installation of domestic water diversion and collection equipment in the North Fork of Luffenholtz Creek under a Streambed Alteration Permit issued by the DFG (Appendix D) and

accepted by the Humboldt County Division of Environmental Health (Appendix E). It appears that all of this work was completed prior to the final conclusion of litigation regarding the project. The "Friends of Westhaven" suit concluded with a decision of the Trial Court on January 31, 2000, and a further decision by the California Court of Appeal, First Appellate District, on April 3, 2000 (Appendix F). The Courts concluded that "Friends of Westhaven & Trinidad" had not exhausted their administrative remedies prior to filing the lawsuit. Therefore, the courts determined that the Board of Supervisor's and Planning Commission's actions should be sustained.

The Subdivision Map Act (Government Code Section 66410 et seq) governs the process local governments use for reviewing proposed divisions of land. Section 66463.5 of the Subdivision Map Act establishes an automatic expiration period of 24-months for approved tentative maps, unless one of several types of extension is granted. If a Final Map is not filed before the Tentative Map expires, the project terminates and no further action occurs unless a new application is submitted for review. If the approval of a Tentative Map is subject to a court proceeding, the sub-divider may apply to the local agency to request a stay of time while the suit is pending. If the local agency grants the stay, the 24 month period extends for up to five years while the court case is pending.

Based on the petition filed by "Friends of Westhaven and Trinidad", the subdivider would have had the option to request a stay of time at any point after the petition was submitted on February 25, 1998. Mr. Moss submitted a request for a stay of time on August 8, 2000, after the conclusion of the court case. The Board of Supervisors approved the applicant's request. "Friends of Westhaven & Trinidad" petitioned the court to overturn the decision to grant an extension of time, on the basis that the map had expired prior to the Board's action, on November 29, 1999, 24-months after the Planning Commission approval. On April 8, 2003, the California Appellate Court (First District) issued an opinion (Appendix G) that essentially concurred with the position of the "Friends of Westhaven & Trinidad" that the map had expired prior to the request for a stay of time. As such, the project was deemed to have expired and the initial application for the Moss Parcel Map Subdivision was terminated.

1.1.2 Second Application (2003)

On September 23, 2003, Mr. Moss reapplied to the County of Humboldt for an identical division of land. County staff began the review process for the project as a new application. This review included the preparation of a second Initial Study (Appendix H) for the project which was completed on May 19, 2005. As the review was based on a new application, County Staff requested fresh input from the public and affected agencies with regard to the project. There are a number of substantive differences between the two documents. Some of those changes relate specifically to new information which was presented in the 2003-2005 review that was either unavailable in 1997 or which had changed in the interim. Some of the changes appear to follow from the changes in CEQA practice throughout the State and in Humboldt County between 1997

and 2005. With a new review and an updated approach to CEQA analysis, the 2005 Initial Study identified several potentially significant impacts which had not been identified as significant in the 1997 Initial Study. New mitigation measures were proposed and several impacts were identified as potentially significant after mitigation. On that basis, Staff recommended the preparation of an EIR.

The project applicant appealed Staff's determination to require an EIR to the Humboldt County Board of Supervisors, which denied the appeal on August 16, 2005 by Resolution Nos. 05-55 and 05-56 (Appendix I). The applicant then petitioned the court, requesting, in essence, that the 2005 Initial Study be set aside in favor of the 1997 Initial Study and adopted Mitigated Negative Declaration. The case was concluded on May 7, 2008, with a decision by the First District Court of Appeal of California (Appendix J). That decision found that the original (1997) Initial Study and Negative Declaration continued to be valid and applicable to the project except where the County had demonstrated that the circumstances in which the project would be carried out had changed substantially. The Court then considered the information in the 2005 Initial Study and determined that two of the impacts identified as "potentially significant" were supported by sufficient evidence of a changed circumstance to merit further consideration. Specifically, the Court authorized the County to require a supplemental review "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. The Court's reasoning for finding that changed circumstances with regard to these two issues merited further review may be summarized as follows:

> Coastal Cutthroat Trout: Following the approval of the 1994 Initial Study, the County of Humboldt was notified that DFG had identified coastal cutthroat trout as a "species of concern". The original Initial Study contained no information to indicate whether coastal cutthroat trout may be present in Luffenholtz Creek or the North Fork of Luffenholtz Creek or whether the project could have a potentially significant effect on the population of the species, if they are present.
>
> Water Supply to the City of Trinidad: The 1997 Initial Study analyzed the availability of surface water for the proposed project and the effect of withdrawals on the largest downstream user, the City of Trinidad. The analysis relied in large part on a technical study prepared in 1995 by a consulting engineering firm (Winzler & Kelly) (Appendix B). That study indicated that there was sufficient water available in Luffenholtz Creek to supply the City of Trinidad at then-current, and substantially increased demand. In 2004, the City of Trinidad submitted evidence to the County of Humboldt that municipal water demand had increased dramatically in the period following the 1995 study. As such, the City indicated there may no longer be sufficient water flows in the Luffenholtz Creek system to support additional upstream withdrawals.

1.1.3 County Determinations with regard to CEQA Review

Based on the 2008 findings of the California Appellate Court (First District), the County of Humboldt has made the following determinations with regard to the CEQA review for the Moss Parcel Map Subdivision:

1) With the exception of impacts to coastal cutthroat trout and water supply to the City of Trinidad, the 1997 Initial Study continues to provide a legally adequate analysis of all potential project impacts and appropriate mitigation measures.
2) With regard to potential project impacts to coastal cutthroat trout and the water supply to the City of Trinidad, the County will rely on the findings of the 2005 Initial Study which indicate that the circumstances under which the project will be carried out have changed, and further, that the changed circumstances are such that to cause potentially significant impacts to those resources.
3) The baseline date for determining whether circumstances have changed following the 1997 Initial Study is determined to be May 19, 2005. This is the date the Board of Supervisors adopted a resolution to uphold the second Initial Study. That resolution formed the basis of the appellate courts ruling.
4) As the 2005 Initial Study identifies potentially significant effects of the project which were not adequately mitigated below the threshold of significance, an EIR will be prepared for the project.
5) As a prior environmental review document (the 1997 Initial Study and associated Negative Declaration) continues to provide legally adequate analysis of the most potential impacts of the project, and only relatively minor changes are needed to address the changed circumstances, the County will prepare a Supplemental EIR as described in CEQA Guidelines Section 15163.
6) As the prior environmental document prepared for the project was a Negative Declaration, the Supplemental EIR will include all of the mandatory contents of an EIR as described in the CEQA Guidelines.

1.2 CEQA Evaluation Process and the Purpose of an EIR

The purpose of a Draft Environmental Impact Report (DEIR) is to evaluate the potentially significant environmental effects ("impacts") of a proposed project and of alternatives to the project. As a Supplemental DEIR, the analysis is limited to those areas for which circumstances have changed since the original CEQA compliance documents (the 1997 Initial Study and Negative Declaration) were adopted. This EIR was prepared to meet all requirements of the CEQA (Public Resources Code Section 21000 et seq) and *Guidelines for the Implementation of the California Environmental Quality Act* (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq. – commonly referred to as the "*CEQA Guidelines*").

The lead agency for the EIR is the County of Humboldt. CEQA typically establishes the lead agency as the public agency with the earliest, or most important discretionary authority to approve the project. In this case, the project and associated EIR will be considered for approval,

August 2nd, 2011

Mayor Bhardwaj and Council Members

City of Trinidad

409 Trinity Street, P. O. Box 390

Trinidad, California 95570

Re: Response to Supplemental Environmental Impact Report (SEIR) for the Moss Parcel Map Subdivision, Trinidad Area, Case No. PMS -03-14,File No. 515-131-23

Dear Mayor and Council Members:

This council, and every other council before it for the past 14 years, has submitted input to the county as regards the Moss Parcel Subdivision. The City has consistently requested a thorough analysis of impacts to its water supply and other issues. The Cities most recent input on 8/19/10 was very clear in stating the Cities concerns about its water and requested several significant mitigation measures to protect the City and its residents.

While some of the Cities requests were honored, several significant requests were denied, discounted, or explained away as not being under consideration due to direction of the courts. This should be of serious concern to the City. While the most recent court decision did limit the areas of consideration of impacts, I will explain below why that decision does not make the Cities concerns off limits.

I believe that the City has every right and obligation to its water customers to be concerned about the precedence that this project will set for the development of the rest of the TLLC 680 acre development that Moss is a part of. The City asked for new mitigation measures, expressed concerns about enforcement, and identified a modified version of Alternative 3 as its preferred alternative.

The following City concerns were added to the final SEIR:

1. Water use restrictions were added to any possible second units that might occur due to zoning changes with General Plan Updates;
2. Runoff will be directed away from septic tank leachfields;
3. Meters will be installed at the intake to each storage tank, and record flows once per day. Records to be submitted to county once per year. Deed restrictions shall be recorded for each parcel to describe dry season withdrawals and storage and this carry to any new owner;

The following City concerns were not added to the final SEIR:

1. Selection of a modified Alternative 3 as the preferred alternative, with open space restrictions to prevent additional diversions or changes in hydrology and sedimentation from forest land conversions reducing base flow in the summer. The county stated that such a modified alternative was unreasonable and not required by CEQA.
2. Water quality issues related to land clearing and conversions from forest to pasture leading to increased sedimentation. The county stated that this is outside the purview of this project based on the court ruling.

Taken as a whole what we have is a precedent setting project with the potential to direct development on the entire 680 acre TLLC development. Cumulative impacts from this development are significant and mostly unmitigated.

The county states in EIR MM 2 (on page 34 of the FSEIR) that “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 dewatering of the streams at or below the subject site is sufficient to prohibit any water diversions during the dry season”. Dewatering streams would be bad for fish and for the Cities water supply.

There are many problems with the Counties suggested mitigations. They have created a house of cards relying on dry season restrictions, pumping records, county enforcement, and massive water storage facilities, rivaling the Cities in size. It will not take much for this house of cards to fall and it puts the City and the fish at great risk.

Severe drought and dry periods have occurred on Luffenholtz Creek in the so-called wet season. The winter of 1976 was extremely dry and in the early 1990’s there was several dry years with a drought in spring. Pumping restrictions need to cover any significant dry period when dewatering might occur, not just the historical dry season. This would further complicate monitoring and enforcement. Additionally, pumping systems and records can be tampered with and the counties ability to enforce existing regulations and restrictions has been severely hampered by budget cuts. In what world does anyone believe that the county will be enforcing this measures included in EIR MM 2 and EIR MM 3. The required water storage facilities are massive and should require engineering to prevent tank failure, erosion, and sedimentation.

I also believe that the water quality issue is eligible for review because it affects water quantity as the City pointed out in its letter last year. Land clearing and conversion on the Clanton Parcel has affected water quality further limiting the Cities ability to pump and treat water. The same types of land clearing are possible on the Moss parcels without open space easements and restrictions.

Dirty water affects the timing of City diversions and treatment and can have dramatic affects on water supply.

Other unmitigated impacts from this project and others that are still to come based on the precedence of this project include:

1. Increase traffic and pedestrian safety issues along Westhaven Drive and at the “Dysfunction Junction at the Freeway;
2. Increased fire danger to the Cities wooden water storage tanks from fire ignitions along Fox Farm Road. The road side vegetation along this road was changed from fire-resistant vegetation (rhodies, huckleberries, and salal) to fire prone vegetation (tall dry grass, broom, and pampas grass). It was upgraded without any CEQA review (a portion of the road project is in the coastal zone) as a mitigation measure for Moss. The mitigation measure had no CEQA review of its impacts and the fact that it would create irreversible momentum to develop the entire 680 TLLC patent parcel subdivision.

These impacts have recently become known and therefor are eligible to be reviewed, regardless of the court decision, as they are substantial changes since the project was reviewed in 2005. The county budget cuts continue to hamper the counties ability to do vegetation maintenance along the road to reduce invasive plants and fire danger, and yet somehow they will magically do monitoring of dry season pumping and storage as well.

I recommend that the City request denial of this project due to unmitigated significant effects to its water and to the fish. Without development deed restrictions on the bulk of the Moss property, the potential for significant impacts are great. Approval of this project as currently designed and mitigated is unreasonable, would be irresponsible, as well as a violation of the spirit and text of CEQA.

Given the dire state of the water supply in Luffenholtz Creek and the fact that it is already over-appropriated in a dry year, the only prudent action is denial of this project. It may even be time to declare a moratorium on further development in this watershed to prevent further suffering, and an increase in danger to the public from a lack of sufficient water supply to fight fire.

Sincerely, Sungnome Madrone

cc. Bill Verick, Attorney at Law

I would request the following mitigation measures and load the record with "substantial evidence".

#1 Require a General Plan Amendment or Zoning Change to allow for the set aside of the bulk of the property as restricted open space.

#3 Require dedication of a trail easement from Fox Farm Road to Luffenholtz Creek as part of the effort to create a community wide coastal trail access network, reducing emissions and improving community health.

#2 Restrict pumping during "dry periods" as defined by flow in the creek and or precipitation minimums, not just traditional dry seasons.

#3 City to receive pumping records quarterly to monitor use regularly and timely, and City to have an easement for on-site inspections.

#4 County to maintain vegetation along Fox Farm so as to eliminate severe fire danger by reducing the invasive veg such as pampas and broom and encouraging native veg such as rhodies and huckleberries.

--

Sungnome Madrone
Madrone Enterprises
1521 Fox Farm Road
Trinidad, CA 95570
(707) 677-0431

RECEIVED AUG 2 1 2011

Print Form

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P. O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # 2009042051

Project Title: Moss Parcel Map Subdivision PMS-03-14

Lead Agency: Humboldt County Community Development Services Dept. Contact Person: Michael E. Wheeler

Mailing Address: 3015 H Street Phone: 707-445-7541

City: Eureka Zip: 95501 County: Humboldt

Project Location: County: Humboldt City/Nearest Community: Trinidad

Cross Streets: N. Westhaven Drive & Fox Farm Road Zip Code: 95570

Lat. / Long.: 41 ° 03 ' 22 " N/ 124 ° 06 ' 47 " W Total Acres: 94

Assessor's Parcel No.: 515-131-23, -24, 515-291-40, -41 Section: 19&30 Twp.: 8N Range: 1E Base: HBM

Within 2 Miles: State Hwy #: US 101 Waterways: Pacific Ocean

Airports: Railways: Schools: Trinidad School

Document Type:

CEQA: ☐ NOP ☐ Early Cons ☐ Neg Dec ☐ Mit Neg Dec ☐ Draft EIR ☐ Supplement/Subsequent EIR (Prior SCH No.) ☐ Other

NEPA: ☐ NOI ☐ EA ☐ Draft EIS ☐ FONSI

Other: ☐ Joint Document ☑ Final Document ☐ Other

Local Action Type:

☐ General Plan Update ☐ General Plan Amendment ☐ General Plan Element ☐ Community Plan
☐ Specific Plan ☐ Master Plan ☐ Planned Unit Development ☐ Site Plan
☐ Rezone ☐ Prezone ☐ Use Permit ☑ Land Division (Subdivision, etc.)
☐ Annexation ☐ Redevelopment ☐ Coastal Permit ☐ Other

Development Type:

☑ Residential: Units 4 Acres 94
☐ Office: Sq.ft. Acres Employees
☐ Commercial: Sq.ft. Acres Employees
☐ Industrial: Sq.ft. Acres Employees
☐ Educational
☐ Recreational
☐ Water Facilities: Type MGD
☐ Transportation: Type
☐ Mining: Mineral
☐ Power: Type MW
☐ Waste Treatment: Type MGD
☐ Hazardous Waste: Type
☐ Other:

Project Issues Discussed in Document:

☐ Aesthetic/Visual
☐ Agricultural Land
☐ Air Quality
☐ Archeological/Historical
☑ Biological Resources
☐ Coastal Zone
☐ Drainage/Absorption
☐ Economic/Jobs
☐ Fiscal
☐ Flood Plain/Flooding
☐ Forest Land/Fire Hazard
☐ Geologic/Seismic
☐ Minerals
☐ Noise
☐ Population/Housing Balance
☐ Public Services/Facilities
☐ Recreation/Parks
☐ Schools/Universities
☐ Septic Systems
☐ Sewer Capacity
☐ Soil Erosion/Compaction/Grading
☐ Solid Waste
☐ Toxic/Hazardous
☐ Traffic/Circulation
☐ Vegetation
☑ Water Quality
☑ Water Supply/Groundwater
☐ Wetland/Riparian
☐ Wildlife
☐ Growth Inducing
☐ Land Use
☐ Cumulative Effects
☐ Other

Present Land Use/Zoning/General Plan Designation: Undeveloped / AE / Dispersed Houses

Project Description: *(please use a separate page if necessary)*

A Parcel Map Subdivision of an approximately 94 acre vacant parcel, into four parcels. Proposed Parcel 1 will be approximately 20.11 acres, proposed Parcel 2 will be approximately 21.02 acres, proposed Parcel 3 will be approximately 32.11 acres and proposed Parcel 4 will be approximately 21 acres. All parcels will be served by on-site water and septic systems.

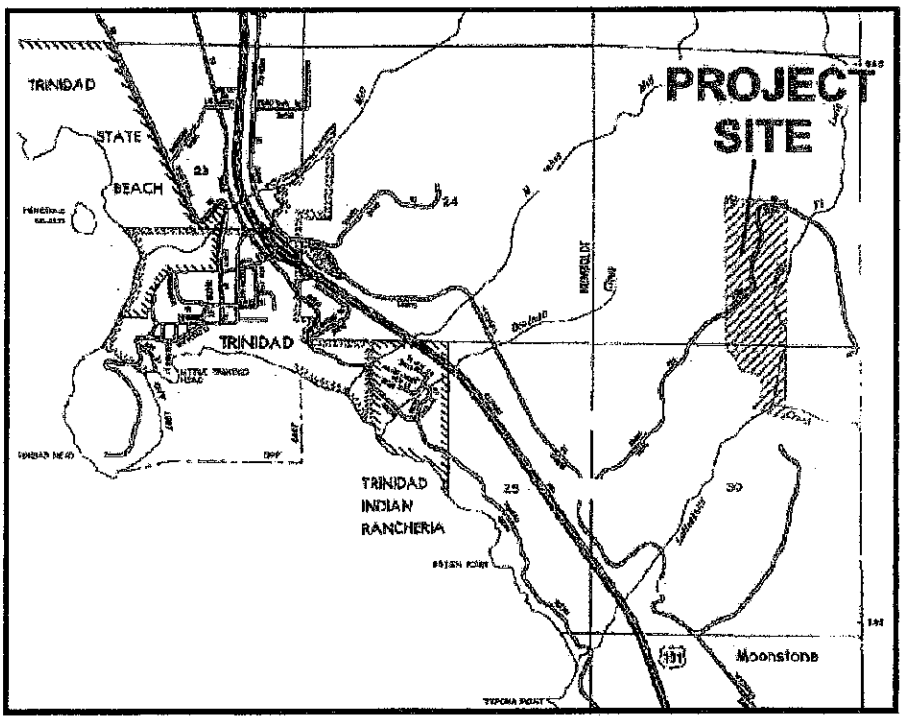
Note: The state Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

January 2008

To be scheduled for the 9-1-11 Planning Commission Mtg

FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

MOSS PARCEL MAP SUBDIVISION
PMS-03-14
Trinidad Area



State Clearinghouse Number 2009042051

July 2011

COMMUNITY DEVELOPMENT SERVICES
PLANNING DIVISION
COUNTY OF HUMBOLDT

3015 H Street
Eureka, CA 95501-4484

FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR MOSS PARCEL MAP SUBDIVISION PMS-03-14

State Clearinghouse Number 2009042051

Prepared for:

County of Humboldt
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Planning Division
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TABLE OF CONTENTS

CHAPTER 1 INTRODUCTION

On July 2, 2010, the County of Humboldt distributed to public agencies and interested citizens a Draft Supplemental Environmental Impact Report (DSEIR). The 45-day public review and comment period ended on August 16, 2010.

Upon the close of the public review period, the County prepared responses to both written and oral comments. These comments and the responses thereto are contained in this Final Supplemental Environmental Impact Report (FSEIR). Chapter Two provides all comment letters received on the Draft SEIR and presents responses to significant environmental issues raised in the comments. Chapter 3 consists of revisions to the text of the DSEIR made in response to the comments as well as corrections to errors identified by the lead agency. Chapter 4 consists of the revised Mitigation Monitoring and Reporting Program reflecting changes to mitigation measures as discussed in the Chapter Two.

Responses to comments are directed towards the disposition of significant environmental issues that are raised in the comments, as set forth in *Section 15088(b)* of the California Environmental Quality Act *CEQA Guidelines*. When reviewing the comments and in developing responses thereto, every effort is made to compare the comment to the facts contained in the Draft EIR, and to provide supplemental information to provide "substantial" evidence about the presence or absence of environmental impacts. According to *CEQA, Section 15064(f)(5)* "argument, speculation, unsubstantiated opinions, or narrative, or evidence that is clearly inaccurate or erroneous does not constitute such [substantial] evidence." Responses are not provided to comments on the non-environmental aspects of the proposed project. For comments not directed to significant environmental issues, the responses indicate that the comment has been "noted".

CEQA requires that the Final SEIR be prepared, certified and considered by the County Board of Supervisors prior to taking action on the project. The Final SEIR provides the County of Humboldt with an opportunity to respond to comments on the Draft SEIR and to incorporate any changes necessary to clarify and/or supplement information contained in the document. The Final SEIR, therefore, summarizes all environmentally related issues raised during the comment period. This Final SEIR will be circulated to public agencies and will be available to all interested parties for at least ten (10) days prior to its certification, as required by CEQA.

1.1 CONTENTS OF THE FINAL EIR

As set forth in the CEQA Guidelines § 15132, the Final EIR shall consist of:

- The Draft EIR or a revision of the draft;
- Comments and recommendations received on the Draft EIR either verbatim or in summary;
- A list of persons, organizations, and public agencies commenting on the Draft MEIR;
- The responses of the lead agency to significant environmental points raised in the review and consultation process;
- Any other information added by the lead agency.

This document has been prepared in the form of a Final EIR and incorporates the Draft EIR by reference and includes revisions to the Draft EIR.

1.2 ORGANIZATION OF THE DRAFT EIR

Executive Summary
Chapter 1 Introduction
Chapter 2 Project Description
Chapter 3 Settings, Impacts, and Mitigation Measures
Chapter 4 Evaluation Of Alternatives And Cumulative Effects.
Chapter 5 Other Mandatory CEQA
Chapter 6 Mitigation Monitoring and Reporting
Appendices

1.3 ORGANIZATION OF THE FINAL EIR

Chapter 1 Introduction

Chapter 2 List of Commenting Persons, Comment Letters Received, and Responses to Comments

Chapter 3 Revisions to the DEIR

Chapter 4 Revised Mitigation Monitoring and Reporting Plan

CHAPTER 2 LIST OF PERSONS COMMENTING, COMMENT LETTERS RECEIVED AND RESPONSES TO COMMENTS

2.1 List of Persons and Agencies Commenting

State Clearinghouse and Planning Unit
City of Trinidad
Ron Dean
Daniel M. O'Hara

2.2 Comment Letters Received

STATE OF CALIFORNIA

Governor's Office of Planning and Research

State Clearinghouse and Planning Unit

Arnold Schwarzenegger
Governor

Cathleen Cox
Acting Director

August 17, 2010

Michael E. Wheeler
Humboldt County Community Development Services Department
3015 H Street
Eureka, CA 95501

Subject: Moss Parcel Map Subdivision PMS-03-14
SCH#: 2009042051

Dear Michael E. Wheeler:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on August 16, 2010, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

RECEIVED
AUG 19 2010
Humboldt County
Planning Division

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
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Document Details Report
State Clearinghouse Data Base

SCH# 2009042051
Project Title Moss Parcel Map Subdivision PMS-03-14
Lead Agency Humboldt County

Type EIR Draft EIR
Description A Parcel map Subdivision of an approximately 94 acre vacant parcel, into four parcels. Proposed Parcel 1 will be approximately 20.11 acres, proposed Parcel 2 will be approximately 21.02 acres, proposed Parcel 3 will be approximately 32.11 acres and proposed Parcel 4 will be approximately 21 acres. All parcels will be served by on-site water and septic systems.

Lead Agency Contact

Name Michael E. Wheeler
Agency Humboldt County Community Development Services Department
Phone 707-445-7541 **Fax**
email
Address 3015 H Street
City Eureka **State** CA **Zip** 95501

Project Location

County Humboldt
City Trinidad
Region
Lat / Long 41° 03' 22" N / 124° 06' 47" W
Cross Streets N. Westhaven Drive & Fox Farm Road
Parcel No. 515-131-23, -24, 515-291-40, -41
Township 8N **Range** 1E **Section** 19,30 **Base** HB&M

Proximity to:

Highways US 101
Airports
Railways
Waterways Pacific Ocean
Schools Trinidad School
Land Use Undeveloped/AE/Dispersed Houses.

Project Issues Biological Resources; Water Quality; Water Supply

Reviewing Agencies Resources Agency; California Coastal Commission; Department of Fish and Game, Region 1E; Cal Fire; Department of Parks and Recreation; Department of Water Resources; Caltrans, District 1; Regional Water Quality Control Board, Region 1; State Water Resources Control Board, Division of Water Rights; Native American Heritage Commission

Date Received 07/02/2010 **Start of Review** 07/02/2010 **End of Review** 08/16/2010

City of Trinidad

August 19, 2010

Michael E. Wheeler, Senior Planner
County of Humboldt
Dept. of Community Development Services, Planning Division
3015 H Street
Eureka, CA 95501

Re: Response to Notice of Availability for the Draft Supplemental Environmental Impact Report for the Moss Parcel Map Subdivision, Trinidad Area; Case No. PMS-03-14, File No. 515-131-23

Dear Mr. Wheeler,

The City of Trinidad respectfully submits the following comments regarding the above mentioned project (herein referred to 'Moss Subdivision') after careful consideration and public hearing.

Overall, the Draft Supplemental Environmental Impact Report (DSEIR) is generally thorough in its analysis of the two issues at hand, and also covered alternatives and cumulative impacts. It seemed to cover most of the potential development scenarios, including additional subdivisions and build-out in Luffenholtz Creek as well as the recent request by CDF to acquire City water. Most of the conclusions and assumptions seem reasonable (e.g. estimates of daily water use per residence). In general, staff feels that the document was well done.

However, there are still uncertainties for the future, and the City has concerns about this project. Though this particular project consists of only three new lots (four total parcels), which partially limits the direct impacts, this subdivision will set future precedence for other subdivisions and development proposals in the area. There are two main areas where City feels that some comments and recommendations are warranted. These include additional mitigation and enforcement measures, and the preferred alternative. The discussion and suggestions below have been divided into subcategories, and the City's overall comments are included in italics.

The City's concerns generally fall into four different categories: future uncertainties; future development and increased water demand; water quality; and the preferred alternative. In order to address these concerns, the City suggests several additions to proposed mitigation as well as additional mitigation.

(707) 677-0223 • 409 Trinity Street • P.O. Box 390 • Trinidad, CA 95570 • Fax (707) 677-3759

Environmentally Superior Alternative

The first comment from the City is that the most environmentally superior alternative should be the "Clustered Development" Alternative (No. 3 in the Draft Supplemental Environmental Impact Report (DSEIR)). The City strongly encourages the County to revise their analysis to determine this to be the case and require this alternative to be implemented as a condition of project approval for the reasons outlined below.

Alternative 2 – Alternative Water Supply (Wells) – is not the environmentally superior alternative, and may have greater impacts than the proposed project.

The determinations that this alternative would have impacts "less than project" for biological and water resources are unsupported by the facts. The description of this alternative acknowledges this: "*Another concern raised in the 2005 Initial Study is that any such well could be directly linked to Deadman Creek, or Luffenholtz Creek, essentially drawing from subsurface flows of those watercourses. In that circumstance, there is the potential that the proposed alternative would cause reductions in surface flows similar to those which would occur under the proposed project.*" (DSEIR p. 4-5) Then, without any additional supporting information the DSEIR goes on to state: "*Alternative 2 has the potential to maintain existing flows in both watercourses on the subject site, limiting effects both to natural communities and to the water supply which ultimately reaches the City of Trinidad.*" (DSEIR p. 4-6) Even if this alternative were mitigated so that the new parcels were required to give up their riparian rights, as suggested on DSEIR p. 4-5 describing this alternative, there is no evidence that any future wells would not be hydrologically connected to the creeks. And even if the connection were not direct subsurface flow, groundwater storage is what provides the stream's baseflow, which is especially important during the dry season.

Alternative 3 – Clustered Development – will have fewer impacts on the environment than the proposed project, or Alternative 2, and should be considered the 'environmentally superior alternative' pursuant to CEQA Guidelines §15126.6

Water impacts were found to be similar to those of the proposed project. However, it is also recognized that by clustering the development, land disturbance impacts are minimized. If a large remainder parcel were to be preserved from future development, it is more likely to retain its native cover. With four 20 acre parcels, based on past developments, it is likely that much of the forest land will be converted to pasture land and non-native vegetation and other development such as gardens and trails, which can significantly affect the hydrologic cycle within the watershed – e.g. grasslands tend to store less water, which could affect dry season flows in Luffenholtz Creek. Therefore, this impact should be considered to be "less than the project."

More generally, most of the effects related to this project were considered to be "similar to the project." However, as mentioned above, clustered development is recognized to have less land disturbance, which reduces several types of impacts to a project. Clustered development is generally considered more walkable and less car-oriented, which could reduce air quality and traffic impacts. Because the clustered development would result in less land disturbances,

biological impacts would also be assumed to be less than the proposed project. Also by clustering development, there is increased efficiency in delivering public services (e.g. police and fire), with fewer utility and lines and roads needed. This decreases impacts to aesthetics, cultural resources, public services, utilities and hazards. Fire hazards should also be less since less land would be disturbed. Therefore, many of these impacts should have been listed as "less than the project" instead of "similar to the project." If these findings had been more appropriately made, then this alternative would be identified as the environmentally superior alternative in Table 4-1 of the DSEIR.

Alternative 3 – Clustered Development – as the environmentally preferred alternative, will reduce potentially significant impacts to the water supply of the City of Trinidad and to coastal cutthroat trout, and should be required as project mitigation.

The City has determined that Alternative 3 should be considered the most environmentally superior alternative and would like to see it further developed and incorporated into the project. Even though this project only involves four lots, it sets precedence for future development in these upper watershed areas that will have larger and lasting effects in the future. Although the DSEIR found that Alternative 3 would have "greater than the project" impacts to land use because the smaller lots are not consistent with General Plan and zoning regulations, these restrictions can be changed through proper permitting process and analysis. In addition, the County is currently going through a General Plan update and policies and zoning that encourage or require clustered development in this area can more easily be incorporated for other areas in the future. The City suggests that this alternative be the one that is required to be developed for the project. Residential development rights on the 84 acre remainder parcel must be converted to an Open Space easement or equivalent with restrictions on residential development and forest cover removal. It is acknowledged that such a change may necessitate changes to the DSEIR and may also alter the recommendations for additional mitigation included below, but in general, the suggestions for mitigation would still be applicable to this alternative.

Mitigation

Under the proposed project, additional mitigation is required to adequately reduce potentially significant impacts to the City's water supply from future uncertainties and increased water demand.

There are many uncertainties in terms of future water use, and stronger mitigation is needed to ensure that future development does not impact the water supply for downstream users, including the City of Trinidad, and fish. These uncertainties include drought conditions, altered weather patterns from climate change and the fact that these parcels may utilize their riparian rights beyond just a single-family residence, including for agriculture, which is what they are zoned for. Dry weather flow testing was done on a limited basis of only a few different years, which do not likely represent the lowest possible flow conditions. In addition, there is a history of well failures in the area, generally from septic pollution, which requires the development of surface water sources or connection to a public water system; this means that some existing development may utilize these sources in the future, not just new development. Secondary dwelling units are another source of potential development on existing lots that was not analyzed in the DSEIR. In

order to address the problems of insufficient water or contaminated wells, the City has included the following policy encouraging the formation of a Water Services District that could supply additional users from the City's water system; many properties outside the City are already connected to the City's water system.

> *Policy LU-8.2* If capacity and / or storage is adequate, study the feasibility of forming a Water District that includes the area to the east and southeast of the City on either side of the freeway, where some properties are already connected to the system, to allow for additional connections outside the City, as the system allows. Eventual annexation should be considered. An 'annexation agreement' (agreeing not to object to future annexation) with the City is a minimum requirement for providing any new connections outside of City limits. Areas to the north of the City should be part of such a district if services are to be provided there in the future.

The 'project demand' (DSEIR p. 3-15) was estimated based on only three units in the Luffenholtz Creek watershed and one in Deadman Creek resulting from the proposed Moss subdivision. It is noted that the AE zone *"generally... permits a maximum of one residential unit per parcel"* (DSEIR p. ES-3). Though the cumulative analysis section of the document recognizes the potential for second units, it is generally considered "too speculative" to include in this analysis. The DSEIR is not clear whether secondary dwelling units would be allowed on these lots, though County staff has stated they would not. However, a General Plan update is underway, and the designation and zoning could easily change. In accordance with State law, second units are generally a ministerial process and most existing lots in the watershed would fall under this requirement. It is not clear whether the dry-season water storage mitigation requirement would apply to any future second units. Therefore, additional mitigation is warranted to ensure future protection of the City's water supply.

Water Quality impacts are also tied to water supply impacts due to limiting factors for potable water such as turbidity and bacterial contamination, and additional mitigation is required to adequately reduce potentially significant impacts to the City's water supply.

Though water quality was not listed as a specific impact to be addressed in the DSEIR, it affects the City's ability to provide water, and is a limiting factor during the wintertime in being able to supply adequate water quantity to customers. Therefore, the City considers this issue to be within the scope of the Court decision limiting the analysis to two issues. Luffenholtz Creek is considered a "Critical Water Supply Area," which is defined by the Humboldt County General Plan as *"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."*

The DSEIR notes (p. 3-6) that: *"Concentrated run-off from developed portions of the site has the potential to increase erosion along the stream banks, carrying silt and soil into the streams. Runoff from developed areas may contain contaminants, including landscape chemicals (pesticides, fertilizers, etc.) and roadway contaminants."* The DSEIR concentrates all of its analysis on quantity impacts to the water supply of the City, but does not adequately address the water quality impacts, which could also impact cutthroat trout. Large lots such as those proposed

are often converted from forest to pasture or garden space or other landscaping. Often dirt roads and paths are created such as for off-road vehicles and site access. These activities can have hydrologic impacts to the stream resulting in more runoff and less storage as well as increased erosion and siltation and introduction of foreign materials, including polluted runoff into the creek. The City's draft General Plan includes the policy implementation included below, and the City requests that mitigation consistent with the policy be included for the Moss subdivision in order to reduce potentially significant impacts to the City's water supply.

> *Program LU-9.5.1:* Pursue adoption of a public education program regarding pesticides and other hazardous chemical, and when feasible, enter into a non-binding Memorandum of Understanding, or other agreement with property owners within the "Critical Water Supply Area" to minimize the use of these chemicals and reduce contamination of water supplies.

The City of Trinidad requests that the following additions be made to the proposed mitigation in order to adequately reduce potentially significant impacts to the City's water supply resulting from the Moss subdivision as described above.

IS MM 4 – regarding site revegetation, should specify 'with native vegetation' (this is a requirement for revegetation within Streamside Management Areas (SMAs) in IS MM 7, but should be required throughout the site). Conversion of large areas to non-native vegetation has the potential to impact the hydrologic cycle and downstream water supplies.

IS MM 5 – regarding runoff from impervious surfaces should additionally specify that runoff be directed away from the septic system in order to more fully protect the leachfield.

IS MM 7 / EIR MM 1 – regarding SMAs should be enforceable long-term. As currently written, it only applies to the building stages, but should be applied to the parcels into the future. The mitigation measure includes restrictions on development, disposal and the use of chemicals in the SMAs. This mitigation needs to be included in a landowner agreement or deed restriction in order to be effective (also see suggested additional mitigation below).

EIR MM 2 and EIR MM 3 – regarding dry-weather storage and pumping, the City has concerns about enforcement. These may be difficult provisions to enforce, though the DSEIR makes a commendable attempt at enforcement measures. But what happens after 5 years and property is sold? There needs to at least be a deed restriction recorded so that future property owners are made aware of the restrictions. There also should be remedial measures in place should the conditions not be complied with. The City also requests the opportunity to review the pumping records annually beyond the five years to ensure that these conditions continue to be followed (also see suggested additional mitigation below). It also should be specified that the permanent flow meters have, at a minimum, daily recording capabilities and that these records be submitted for review annually. Easements should be established that provide access to the storage tanks, pumps and flow meters for inspection purposes. Assessments should be established to cover the cost of inspections and evaluations. In addition, rain / fog water collection system should be included as part of the water storage mitigation measure EIR MM 2.

EIR MM 4 – The City strongly supports this mitigation measure and future policy, including for any secondary dwelling units even if ministerially approved. This policy can be applied as a standard to be met even for ministerial projects to be verified through a building permit process and this provision should be added to the mitigation. The City has some concerns about enforcement of this mitigation and the timing. The Planning Commission and Board of Supervisors could reject such a policy, or it may not be a priority for an agenda item. Therefore, it should be completed prior to approval of Final Map or Waiver rather than within 12 months.

The City of Trinidad requests that the following additional mitigation be required in order to adequately reduce potentially significant impacts to the City's water supply resulting from the Moss subdivision as described above.

1. Include an additional mitigation measure(s) that requires landowner agreements or deed restrictions to restrict the use of chemicals such as fertilizers and pesticides, the amount of land clearing and land conversion such as from forest to pasture or to non-native vegetation for the entire parcel, not just the SMAs and not just during construction.

2. Include an additional mitigation that requires any future secondary dwelling units to demonstrate that the development will not reduce instream water flow below that necessary for maintaining necessary flows in Luffenholtz Creek similar to EIR MM 4. In addition, clarify that all secondary dwelling units will be required to comply with EIR MM 2 and EIR MM 3 regarding dry-season water storage if they are allowed in the future.

3. Add a mitigation measure that the public works inspection records of metered flows be provided to the City each year for review.

Thank you for the opportunity to comment on this important and potentially far-reaching project. These comments have been carefully considered by City staff and the City Council at a public hearing. The City has determined that significant impacts to the City's water supply may result if the suggestions are not included as mitigation and conditions of approval of the Moss subdivision. Please feel free to contact me if you have any questions.

Respectfully

Kathy Bhardwaj

Kathy Bhardwaj, Mayor Pro-Tem
On Behalf of Stan Binnie, Mayor
City of Trinidad

Aug. 19. 2010

Ron Dean
83 Fox Farm Rd.
Trinidad, CA. 95570
A.P. # 515-131-031

RE: Moss Subdivision- "Notice of public hearing"
File Number 515-131-23

Michael E, Wheeler,

I've read most of the E.I.R on this project and I appreciate the due diligence that has been developed on its behalf. However, there is still no way that I can consider the impacts to our property as "insignificant", mainly for the following reasons:

1. Our place is unique in that our house is close to the road and all vehicle traffic for development and new residence has to grind up the hill past Our house. It is worse for us since the widening of the road making it easier for too many to ignore the speed limit of 25mph. The result for us is more noise and more perilous to people and pets.
2. When we came here in 1977, Deadman's creek frontage was a major attractive feature. Since that time we regrettable watched it deminish to a point where it is barely visible above ground during late summer-early fall . With all the possible future subdivision between us and this Moss subdivision. we would like to know how many additional residences will rely on this creek before the impacts to this tiny creek are considered "significant". It seems that the "average residential water usage" in the EIR is calculated from suburb type usage and not typical of 20+ acre hobby ranches that may decide to dabble in activities like aquaculture, crop production, golf course, or raising livestock. . We are against ANY further water rights being established with Deadman's creek as its source.
3. Unintended, unforeseen consequences. Case in point, widening the road. I have no doubt that this project was done with similar due diligence as the proposed Moss subdivision. From our viewpoint, the impacts are more noisy speeding traffic . Gravel imported for the project was contaminated with seeds of pampas grass and scotch broom, both of which spread vigorously, crowding out native species and are nearly impossible to get rid of once established.

4. At one point I had a conversation with one of the representatives of this project. expressing some of my concerns . He shrugged and generally replied .....'that's just business'. These changes, known and unforeseen will impact this neighborhood for years to come, long after the doers and their *business* is done in our backyards. We choose this place because we liked the way is was at the time (Dec. 77).
5. Especially in this economy, I'm generally not in favor of the transition of timber resource land to residences. Some area residence are already forced to import water, and with the chance of future weather changes I think it unwise to exploit every resource, especially water.

Most if not all these issues were addressed in the EIR for this project, and determined **"not significant"**. They ARE significant to us.
Thanks for the opportunity to comment. I'll look forward to the public hearing.
Ron Dear

Ron Dear

August 20, 2010

Dear Ms. Wheeler:

In regard to the Moss Parcel Map Subdivision Project, PMS-03-14, 515-131-23, my wife and I are the owners of the following:

#515-121-023-000 (40 A.)
#515-131-015-000 (7.5 A. - Railroad Bed)

We do have serious concerns regarding the type of subdivision proposed. They include runoff during winter into Luffenholtz Creek and a diminished summer flow to that creek for fish survival and the water supply to the Town of Trinidad. Dead Man Gulch is likely to experience a diminished availability of water as well for those who live downstream.

We do believe the project will result in significant impacts for us, and we therefore appreciate a thorough public review of the project.

Sincerely,

Daniel M. O'Hara
707-677-3840

RECEIVED
AUG 23 2010
Humboldt County
Planning Division

2.3 Responses to Comments

This section restates each of the comments received on the Draft SEIR during the review period. Following each comment is a response intended to either supplement, clarify, or amend information provided in the Draft SEIR, or refer the commenter to the appropriate place in the Draft SEIR and Final EIR where the requested information is found. Each letter and corresponding response is numbered for reference. Comments not directed to significant environmental issues are included in this section; responses thereto indicate that the comment has been noted and that no detailed response is necessary.

Response to Comment Letter #1

State of California
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit
1400 Tenth Street
P.O. Box 3044
Sacramento, CA 95812-3044

Comment 1.1

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on August 16, 2010, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Response 1.1

None required

Response to Comment Letter #2

City of Trinidad
409 Trinity Street
P.O. Box 390
Trinidad, CA 95570

Comment 2.1

Environmentally Superior Alternative

The first comment from the City is that the most environmentally superior alternative should be the "Clustered Development" Alternative (No. 3 in the Draft Supplemental Environmental Impact Report (DSEIR)). The City strongly encourages the County to revise their analysis to determine this to be the case and require this alternative to be implemented as a condition of project approval for the reasons outlined below.

Response 2.1

Comment noted. Specific responses will follow specific comments.

Comment 2.2

Alternative 2 - Alternative Water Supply (Wells) - is not the environmentally superior alternative, and may have greater impacts than the proposed project.

The determinations that this alternative would have impacts "less than project" for biological and water resources are unsupported by the facts. The description of this alternative acknowledges this: "Another concern raised in the 2005 Initial Study is that any such well could be directly linked to Deadman Creek, or Luffenholtz Creek, essentially drawing from subsurface flows of those watercourses. In that circumstance, there is the potential that the proposed alternative would cause reductions in surfaced flows similar to those which would occur under the proposed project." (DSEIR p.4-5) Then, without any additional supporting information the DSEIR goes on to state: "Alternative 2 has the potential to maintain existing flows in both watercourses on the subject site, limiting effects both to natural communities and to water supply which ultimately reaches the City of Trinidad." (DSEIR p.4-6) Even if this alternative were mitigated so that the new parcels were required to give up their riparian rights, as suggested on DSEIR p.4-5 describing this alternative, there is no evidence that any future wells would not be hydrologically connected to the creeks. And even if the connections were not direct subsurface flow, groundwater storage is what provides the stream's baseflow, which is especially important during the dry season.

Response 2.2

As noted on Page 4-11 of the DSEIR, Appendix P (Domestic Water Well Feasibility Analysis), offers evidence in support of the conclusion that the Alternative No. 2 (Alternative Water Supply) could "reasonably likely" be implemented without reducing the water supply in Luffenholtz Creek. As further noted on Page 4-11, a definitive finding would require the development of test wells on the subject site to determine the direction of subsurface flows and the hydrologic response to well draw-downs. If implemented, such tests may show that the wells are either infeasible due to the lack of available groundwater or that there is no environmental advantage of such wells over the proposed project, which relies on direct surface diversion, if the wells share a direct hydrologic connection to the surface water. However, there appears to be no basis for a conclusion that domestic water wells would have a greater environmental impact than the proposed project. If a direct hydrologic connection is found, the mitigation measures describing volume and timing of diversion would continue to apply to the project.

The lead agency concurs that additional information regarding sub-surface flows would be desirable and concludes that such information is only likely to be presented if Alternative No. 2 is selected as the preferred alternative and test wells are developed, as described on Page 4-11. If, as noted in the comment, there is no environmental advantage to Alternative No. 2 based on

subsurface flows, the applicable mitigation measures would be sufficient to reduce such effects below the threshold of significance.

Comment 2.3

Alternative 3 - Clustered Development - will have fewer impacts on the environment than the proposed project, or Alternative 2, and should be considered the 'environmentally superior alternative' pursuant to CEQA Guidelines §15126.6

Water impacts were found to be similar to those of the proposed project. However, it is also recognized that by clustering the development, land disturbance impacts are minimized. If a large remainder parcel were to be preserved from future development, it is more likely to retain its native cover. With four 20 acre parcels, based on past developments, it is likely that much of the forest land will be converted to pasture land and non-native vegetation and other development such as gardens and trails, which can significantly affect the hydrologic cycle within the watershed - e.g. grasslands tend to store less water, which could affect dry season flows in Luffenholtz Creek. Therefore, this impact should be considered to be "less than the project."

More generally, most of the effects related to this project were considered to be "similar to the project." However, as mentioned above, clustered development is recognized to have less land disturbance, which reduces several types of impacts to a project. Clustered development is generally considered more walkable and less car-oriented, which could reduce air quality and traffic impacts. Because the clustered development would result in less land disturbances, biological impacts would also be assumed to be less than the proposed project. Also by clustering development, there is increased efficiency in the delivering public services (e.g. police and fire), with fewer utility and lines and roads needed. This decreases impacts to aesthetics, cultural resources, public services, utilities and hazards. Fire hazards should also be less since less land would be disturbed. Therefore, many of these impacts should have been listed as "less than the project" instead of "similar to the project." If these findings had been more appropriately made, then this alternative would be identified as the environmentally superior alternative in Table 4-1 of the DSEIR.

Response 2.3

As noted on page 4-8 of the DSEIR, the primary result of Alternative No. 3 would be to relocate the residence planned to be constructed on the developable building pad on Parcel 4 to one of the two developable building pads on Parcel 3. The overall development density would be unchanged and the relationship of the project site to the communities of Westhaven and Trinidad would not be affected. Such an alternative would have no beneficial or detrimental effect on walkability, car orientation, provision of police and fire services, utility lines or road construction. While such benefits may accrue to clustered development for larger or differently situated projects, there is no apparent mechanism to achieve such benefits in this instance. As noted on page 4-8 of the DSEIR, the primary advantage related to development would be the

result of reduced on-site driveway lengths and, if feasible, the establishment of shared building pads which could reduce the overall graded area on the subject site.

Additionally, the comment assumes use restrictions on the Remainder parcel which are not proposed in Alternative No. 3 and which may not be feasible. Alternative No. 3 includes an assumption that development rights on the Remainder parcel would be dedicated to Humboldt County or otherwise extinguished as a condition of approval of the proposed subdivision. The comment extends the language of Alternative No. 3 to further assume that the Remainder would not be used for pasturage, gardening, trails and other, unspecified land disturbance, all of which are currently permitted under the existing zoning. The comment asserts that a greater percentage of native cover is likely to be preserved in the clustered development alternative than in the proposed project alternative and relies on that assumption to indicate that the natural hydrologic function of the site would be less disturbed with associated reductions in water impacts and the risk of fire.

In order to achieve the benefits of clustering assumed in the comment letter to accrue to the project as a result of Alternative No. 3, it would be necessary to add substantial further restrictions to the use of the Remainder parcel, beyond the development restrictions proposed in the DSEIR. It is not clear from the comment what the extent of such restrictions would be, but they would clearly include extinguishing the ability to pasture livestock, install landscaping, and construct driveways and walking trails, and a likely a number of additional permitted activities generally allowed by right in the AE Zone. Such potential restrictions fall outside of the scope of Alternative No. 3 and, if sufficient to achieve the results assumed in the letter, may exceed a "rough proportionality" in relation to the magnitude of the potential impacts to be addressed. (See Dolan v. City of Tigard, 1994, 512 U.S. 374, 114 S. Ct. 2309)

The lead agency maintains that Alternative 3 would have similar impacts as the proposed project in that the building sites as proposed on the tentative map are already clustered. As shown on the tentative map, the proposed building sites for Parcels 1, 2, and 3 are located within a radius of approximately 250 feet of each other and are also located near to Fox Farm Road. Under Alternative 3, the building sites would remain as those for the proposed project, the only difference being smaller lot sizes. The building site for Parcel 4, although more isolated from the other building sites, is located near to Fox Farm Road in an area which was determined to be best suited for the location of the septic system. There is no evidence that home construction on Parcel 4 of the proposed project will result in more land disturbance impacts than construction of a fourth home under Alternative 3, as the building sites are relatively equal in size

Similar to the proposed project, the building sites' proximity to Fox Farm Road will allow increased efficiency in delivering police and fire services and will not require lengthy access driveways and utility line extensions. Alternative 3 would require a General Plan Amendment and Rezone in order to subdivide the site into the 1-acre lots proposed under Alternative 3. The lead agency maintains that subdividing below the current 20-acre minimum lot size would be

precedent setting in the project area and may encourage other property owners to file similar applications.

Comment 2.4
Alternative 3 - Clustered Development - as the environmentally preferred alternative, will reduce potentially significant impacts to the water supply of the City of Trinidad and to coastal cutthroat trout, and should be required as project mitigation.

The City has determined that Alternative 3 should be considered the most environmentally superior alternative and would like to see it further developed and incorporated into the project. Even though this project only involves four lots, it sets precedence for future development in these upper watershed areas that will have larger and lasting effects in the future. Although the DSEIR found that Alternative 3 would have "greater than the project" impacts to land use because the smaller lots are not consistent with General Plan and zoning regulations, these restrictions can be changed through proper permitting process and analysis. In addition, the County is currently going through a General Plan update and polices and zoning that encourage or require clustered development in this area can more easily be incorporated for other areas in the future. The City suggests that this alternative be the one that is required to be developed for the project. Residential development rights on the 84 acre remainder parcel must be converted to an Open Space easement or equivalent with restrictions on residential development and forest cover removal. It is acknowledged that such a change may necessitate changes to the DSEIR and may also alter the recommendations for additional mitigation included below, but in general, the suggestions for mitigation would still be applicable to this alternative.

Response 2.4
As described in Response 2.3, the lead agency continues to find that Alternative No. 3 is not the environmentally superior alternative. As described in Comment 2.4, in order to achieve the benefits being suggested, Alternative No. 3 would require substantial modification to restrict a variety of activities permitted by the AE Zone, and collectively described as "forest cover removal" under an "Open Space easement." As noted in the comment, the current project "only involves four lots." Only three of those lots (Parcels 2, 3, and 4) could reasonably be affected by a clustered development plan because Parcel 1 is located across Fox Farm Road. As such, Alternative 3 is described as a clustering plan which would place the building pad on Parcel 4 in closer proximity to the building pads on Parcels 2 and 3.

CEQA requires the analysis of a "reasonable range" of alternatives but does not require analysis of all conceivable variations of such alternatives. This is particularly true where variations on such alternatives may themselves be infeasible. While clustering generally is a feasible alternative, the lead agency does not concur that the establishment of an open space easement which prohibits "forest cover removal" on the Remainder parcel is a feasible alternative or falls within a reasonable range of alternatives in the case of a project consisting of four lots, three of which could be affected by such an approach.

As noted in the comment, and in the Cumulative Impacts analysis of the DSEIR (Chapter 5), other projects may by proposed in the general vicinity of the subject parcel in the future and those projects may be considered under an amended General Plan. It is anticipated that clustered development would continue to be considered as a feasible alternative for such projects and that the specific application of such clustering will be addressed on a case by case basis.

Comment 2.5

Under the proposed project, additional mitigation is required to adequately reduce potentially significant impacts to the City's water supply from future uncertainties and increased water demand.

There are many uncertainties in terms of future water use, and stronger mitigation is needed to ensure that future development does not impact the water supply for downstream users, including the City of Trinidad, and fish. These uncertainties include drought conditions altered weather patterns from climate change and the fact that these parcels may utilize their riparian rights beyond just a single-family residence, including for agriculture, which is what they are zoned for. Dry weather flow testing was done on a limited basis of only a few different years, which do not likely represent the lowest possible flow conditions. In addition, there is a history of well failures in the area, generally from septic pollution, which requires the development of surface water sources or connection to a public water system; this means that some existing development may utilize these sources in the future, not just new development. Secondary dwelling units are another source of potential development on existing lots that was not analyzed in the DSEIR. In order to address the problems of insufficient water or contaminated wells, the City has included the following policy encouraging the formation of a Water Services District that could supply additional users from the City's water system; many properties outside the City are already connected to the City's water system.

Policy LU-8.2.....If capacity and/or storage is adequate, study the feasibility of forming a Water District that includes the area to the east and southeast of the City on either side of the freeway, where some properties are already connected to the system, to allow for additional connections outside the City, as the system allows. Eventual annexation should be considered. An "annexation agreement" (agreeing not to object to future annexation) with the City is a minimum requirement for providing any new connections outside of City limits. Areas to the north of the City should be part of such a district if services are to be provided there in the future.

Response 2.5

The additional sources of potential diversions from Luffenholtz Creek are either addressed in the CEQA document, do not reflect a change from existing circumstances as a result of the project, or rely on speculative future scenarios which may not occur as described and are beyond the scope of typical CEQA analysis as follows:

- Drought conditions and dry weather testing: As described in EIR Section 3.2.1.5, dry weather testing was performed on Luffenholtz Creek in 1994 and 1996 to the satisfaction of the California Department of Fish and Game in the issuance of a Streambed Alteration Permit.

- Climate change: While climate change has the potential to further reduce in-stream flows in the dry season, the mitigation measures prohibiting diversions from Luffenholtz Creek and Deadman Creek during the dry season adequately account for this possibility.

- Agricultural irrigation: The potential to use riparian water rights for agricultural uses is unchanged by the proposal to divide the property. Aside from the residential uses described in detail in the Draft EIR, no new authorization for use is granted by the project.

- Potential surface water diversions to replace future failed wells on other parcels in the Luffenholtz Creek watershed: No evidence is provided to indicate that such well failures are typical in the watershed, or that such failures typically lead to surface water diversions as opposed to the development of new wells or the utilization of water delivery services. In the absence of such evidence, the potential effect of such potential diversions on the water supply of the City of Trinidad is too speculative to effectively analyze with this EIR. Further, any such diversion would require permitting from the Department of Fish and Game, and would be subject to appropriate analysis and mitigation at the time of application.

- Secondary dwelling units: Second unit dwellings are not a permitted use in the AE zone (Humboldt County Zoning Regulations Section 3314-7.1). The development of potential secondary dwelling units on other parcels in the vicinity was deemed too speculative to analyze with this EIR pursuant to Save Round Valley Alliance v. County of Inyo (2007) 157 Cal. App. 4th 1437, which found such analysis to be unduly speculative.

While outside of the scope of the EIR, the Lead Agency is generally supportive of the City of Trinidad Policy LU-8.2.

Comment 2.6

The "project demand" (DSEIR p. 3-15) was estimated based on only three units in the Luffenholtz Creek watershed and one in Deadman reek resulting from the proposed Moss subdivision. It is noted that the AE zone "generally... permits a maximum of one residential unit per parcel" (DSEIR p. ES-3). Though the cumulative analysis section of the document recognizes the potential for second units, it is generally considered "too speculative" to include in this analysis. The DSEIR is not clear whether secondary dwelling units would be allowed on these lots, though County staff has stated they would not. However, a General Plan update is

underway, and the designation and zoning could easily change. In accordance with State law, second units are generally a ministerial process and most existing lots in the watershed would fall under this requirement. It is not clear whether they dry-season water storage mitigation requirement would apply to any future second units. Therefore, additional mitigation is warranted to ensure future protection of the City's water supply.

Response 2.6
Second unit dwellings are not a permitted use in the AE zone (Humboldt County Zoning Regulations Section 3314-7.1). It is acknowledged that the County is in the process of a General Plan update. However, it is overly speculative to assume that the update will or may amend the General Plan Land Use designations and Zoning Regulations in such a manner which would permit secondary units in areas where they are currently not permitted. Such an amendment would also require CEQA review which would enable reviewing bodies to revisit the issue of impacts to the watersheds in question due to secondary units.

The Lead Agency concurs that dry season water storage would be required for any future secondary dwelling unit on the subject site, if such dwelling units become permissible in the future. Mitigation Measure EIR MM2 will be amended to clarify that dry season storage applies to all separate residential units.

Comment 2.7
Water Quality impacts are also tied to water supply impacts to limiting factors for potable water such as turbidity and bacterial contamination, and additional mitigation is required to adequately reduce potentially significant impacts to the City's water supply.

Though water quality was not listed as a specific impact to be addressed in the DSEIR, it affects the City's ability to provide water, and is a limiting factor during the wintertime in being able to supply adequate water quantity to customers. Therefore, the City considers this issue to be within the scope of the Court decision limiting the analysis to two issues. Luffenholtz Creek is considered a "Critical Water Supply Area," which is defined by the Humboldt County General Plan as "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 for development activities."

The DSEIR notes (p. 3-6) that: "Concentrated run-off from developed portions of the site has the potential to increase erosion along the stream banks, carrying silt and soil into the streams. Runoff from developed areas may contain contaminates, including landscape chemicals (pesticides, fertilizers, etc.) and roadway contaminates." The DSEIR concentrates all of its analysis on quantity impacts to the water supply of the City, but does not adequately address the water quality impacts, which could also impact cutthroat trout. Large lots such as those proposed are often converted from forest to pasture or garden space or other landscaping. Often dirt roads and paths are created such as for off-road vehicles and site access. These activities

can have hydrologic impacts to the stream resulting in more runoff and less storage as well as increased erosion and siltation and introduction of foreign materials, including polluted runoff into the creek. The City's draft General Plan includes the policy implementation included below and the City requests that mitigation consistent with the policy be included for the Moss subdivision in order to reduce potentially significant impacts to the City's water supply.

Program LU-9.5.1: Pursue adoption of a public education program regarding pesticides and other hazardous chemical, and when feasible, enter into a non-binding Memorandum of Understanding, or other agreement with property owners within the "Critical Water Supply Area" to minimize the use of these chemicals and reduce contamination of water supplies.

Response 2.7
As described in DSEIR Section 1.1.2, water quality impacts of the project, generally are outside of the scope of the DSEIR as they have been found by the courts to have been adequately analyzed in the prior adopted Initial Study and Negative Declaration. With respect to water quality impacts specific to the effect on coastal cutthroat trout, the lead agency maintains that this has been adequately addressed Section 3.2.1 of the DSEIR and that the identified Mitigation Measures (1997 IS MM No. 7, 1997 IS MM No. 10 and EIR MM No. 1) are sufficient to reduce potential effects below the identified threshold of significance.

Comment 2.8
The City of Trinidad requests that the following additions be made to the proposed mitigation in order to adequately reduce potentially significant impacts to the City's water supply resulting from the Moss subdivision as described above.

IS MM4 – regarding site revegetation, should specify "with native vegetation" (this is a requirement for revegetation within Streamside Management Areas (SMAs) in IS MM 7, but should be required throughout the site). Conversion of large areas to non-native vegetation has the potential to impact the hydrologic cycle and downstream water supplies.

Response 2.8
No evidence has been submitted to support the assertion that revegetation with unspecified native species in areas outside of the SMA would reduce the impact to the water supply of the City of Trinidad.

Comment 2.9
IS MM 5 – regarding runoff from impervious surfaces should additionally specify that runoff be directed away from the septic system in order to more fully protect the leach field.

Response 2.9
Mitigation Measure IS MM5 requires that impervious surfaces be designed to dissipate runoff uniformly particularly for runoff directed towards steep slopes or creeks. Mitigation Measure IS

MM5 will be amended to specify that impervious surfaces be designed to also dissipate runoff away from septic systems to protect leach fields.

Comment 2.10
IS MM 7 / EIR MM 1 – regarding SMAs should be enforceable long-term. As currently written, it only applies to the building stages, but should be applied to the parcels into the future. The mitigation measure includes restriction on development, disposal and the use of chemicals in the SMAs. This mitigation needs to be included in a landowner agreement or deed restriction in order to be effective (also see suggested additional mitigation below).

Response 2.10
IS MM 7 contains provisions for the establishment of SMA's and controlling and mitigating erosion and runoff due to construction. EIR MM 1 requires that the provisions of IS MM 7 shall continue to apply throughout the project. The DSEIR concluded that the mitigation measures included in IS MM7 would result in less than significant impacts to the SMAs due to all development activities; during initial construction phases and any future development. As stated in the Response to Comment 1.13, future development (i.e. second unit dwellings or other main structures) are not permitted uses in the existing AE zoning designation. Therefore, the inclusion of further mitigation measures based on the speculative assumption of a General Plan amendment and rezone are not warranted at this time.

Comment 2.11
EIR MM 2 and EIR MM 3 – regarding dry-weather storage and pumping, the City has concerns about enforcement. These may be difficult provisions to enforce, though the DSEIR makes a commendable attempt at enforcement measures. But what happens after 5 years and property is sold? There needs to be at least a deed restriction recorded so that future property owners are made aware of restrictions. There also should be remedial measures in place should the conditions not be complied with. The City also requests the opportunity to review the pumping records annually beyond the five years to ensure that these conditions continue to be followed (also see suggested additional mitigation below). It also should be specified that the permanent flow meters have, at a minimum, daily recording capabilities and that these records be submitted for review annually. Easements should be established that provide access to the storage tanks, pumps and flow meters for inspection purposes. Assessments should be established to cover the cost of inspections and evaluations. In addition, rain/fog water collection system should be included as part of the water storage mitigation measure EIR MM 2.

Response 2.11
Mitigation Measure EIR MM2 requires the provision of dry season water storage facilities for each new residence. EIR MM3 requires water pumps restricting the amount of water pumped to those daily maximums established in the DSEIR. The DSEIR concluded that EIR MM2 and MM3 would mitigate impacts to Luffenholtz and Deadman Creeks to less than significant levels. While rain collectors would be a desirable and recommended additional feature for homeowners,

such facilities are not required to reduce the potential effect below the threshold of significance and are not included in the Mitigation Measure.

The lead agency concurs that notification of future property owners is a critical component of the long term success EIR MM2 and EIR MM3. As such, those Measures have been modified to specify the requirement for a recorded notice, discoverable in future title searches, to ensure that the requirements will be presented to future purchasers. The lead agency similarly concurs that the suggested modifications to add specificity to the requirements for monitoring equipment and access will support the success of EIR MM3.

It should be noted that the requirements of EIR MM2 continue in perpetuity and will be enforceable through the County of Humboldt's Code Enforcement authority. The requirement for twice annual noticing for five years is intended to establish a baseline for compliance during initial development, but is not intended to replace the enforcement mechanisms which apply to all adopted mitigation measures.

It is the Lead Agency's understanding that pumping records submitted by the property owner's to the County of Humboldt would be public records and that no special arrangement for access to those records by the City of Trinidad is necessary.

Comment 2.12
EIR MM 4 – The City strongly supports this mitigation measure and future policy, including for any secondary dwelling units even if ministerially approved. This policy can be applied as a standard to be met even for ministerial projects to be verified through a building permit process and this provision should be added to the mitigation. The City has some concerns about enforcement of this mitigation and the timing. The Planning Commission and Board of Supervisors could reject such a policy, or it may not be a priority for an agenda item. Therefore, it should be completed prior to approval of Final Map or Waiver rather than within 12 months.

Response 2.12
The Lead Agency continues to determine that EIR MM4 is sufficient to reduce the potential cumulative effect of future development to the City of Trinidad Water supply below the adopted threshold of significance.

Comment 2.13
The City of Trinidad requests that the following additional mitigation be required in order to adequately reduce potentially significant impacts to the City's water supply resulting from the Moss subdivision...

> *Include an additional mitigation measure(s) that requires landowner agreements or deed restrictions to restrict the use of chemicals such as fertilizers and pesticides, the amount of land clearing and land conversion such as from forest to pasture or to non-native vegetation for the <u>entire</u> parcel, not just the SMAs and not just during construction.*

Response 2.13
As described in DSEIR Section 1.1.2, water quality impacts of the project, generally are outside of the scope of the DSEIR as they have been found by the courts to have been adequately analyzed in the prior adopted Initial Study and Negative Declaration.

Comment 2.14
The City of Trinidad requests that the following additional mitigation be required in order to adequately reduce potentially significant impacts to the City's water supply resulting from the Moss subdivision...

Include an additional mitigation that requires any future secondary dwelling units to demonstrate that the development will not reduce instream water flow below that necessary for maintaining necessary flows in Luffenholtz Creek similar to EIR MM 4. In addition, clarify that all secondary dwelling units will be required to comply with EIR MM 2 and EIR MM 3 regarding dry-season water storage if they are allowed in the future.

Response 2.14
As noted in Response Number 2.6 above, the lead agency concurs that EIR MM 2 and EIR MM 3 should be modified to clarify that any future secondary residences on the property would be required to provide adequate dry season storage.

Comment 2.15
The City of Trinidad request that the following additional mitigation be required in order to adequately reduce potentially significant impacts to the City's water supply resulting from the Moss subdivision...

Add a mitigation measure that the public works inspection records of metered flows be provided to the City each year for review.

Response 2.15
As noted in Response 2.11 above, such records will be available to the City of Trindad as public records. As such the modification to the Mitigation Measure is not necessary.

Response to Comment Letter #3
Ron Dean
83 Fox Farm Road
Trinidad, CA 95570

Comment 3.1
Our place is unique in that our house is close to the road and all vehicle traffic for development and new residence has to grind up the hill past our house. It is worse for us since the widening of the road making it easier for too many to ignore the speed limit of 25mph. The result for us is more noise and more perilous to people and pets.

Response 3.1
As described in DSEIR Section 1.1.2, traffic and noise impacts of the project, generally are outside of the scope of the DSEIR as they have been found by the courts to have been adequately analyzed in the prior adopted Initial Study and Negative Declaration.

Comment 3.2
When we came here in 1977, Deadman's creek frontage was a major attractive feature. Since that time we regrettable watched it diminish to a point where it is barely visible above ground during late summer-early fall. With all the possible future subdivision between us and this Moss subdivision, we would like to know how many additional residences will rely on this creek before the impacts to this tiny creek are considered "significant". It seems that the "average residential water usage" in the EIR is calculated from suburb type usage and not typical of 20+ acre hobby ranches that may decide to dabble in activities like aquaculture, crop production, golf course, or raising livestock. We are against ANY further water rights being established with Deadman's creek as its source.

Response 3.2
Mitigation Measures EIR MM2 and EIR MM3 continue to apply to the project to reduce the impacts to the in-stream water supply of Deadman Creek.

Comment 3.3
Unintended, unforeseen consequences. Case in point, widening the road. I have no doubt that this project was done with similar due diligence as the proposed Moss subdivision. From our viewpoint, the impacts are more noisy speeding traffic. Gravel imported for the project was contaminated with seeds of pampas grass and scotch broom, both of which spread vigorously, crowding out native species and are nearly impossible to get rid of once established.

Response 3.3
As described in DSEIR Section 1.1.2, traffic and general biological impacts of the project are outside of the scope of the DSEIR as they have been found by the courts to have been adequately analyzed in the prior adopted Initial Study and Negative Declaration.

Comment 3.4
At one point I had a conversation with one of the representatives of this project, expression some of my concerns. He shrugged and generally replied..... "that's just business". These changes, known and unforeseen will impact this neighborhood for years to come, long after the doers and their business is done in our backyards. We choose this place because we liked the way it was at the time (Dec. 77).

Response 3.4
Comment noted.

Comment 3.5
Especially in this economy, I'm generally not in favor of transition of timber resource land to residences. Some area residences are already forced to import water, and with the chance of future weather changes I think it unwise to exploit every resource, especially water.

Response 3.5
The proposed project does not include a change in land use designation, zoning, or timberland conversion. Single-family residences are a permitted use in the existing Agriculture Exclusive zoning designation.

Response to Comment Letter #4
Daniel M. O'Hara
(Address not provided)

Comment 4.1
We do have serious concerns regarding the type of subdivision proposed. They include (1) runoff during winter into Luffenholtz Creek and (2) a diminished summer flow to that creek for fish survival and (3) the water supply to the town of Trinidad. (4) Deadman Gulch is likely to experience a diminished availability of water as well for those who live downstream.

We do believe the project will result in significant impacts for us, and (5) we therefore appreciate a thorough public review of the project.

Response 4.1
(1) Mitigation Measure No. 7 which was adopted with the 1997 Mitigated Negative Declaration continues to apply to the project and will reduce the potential impacts due to stormwater runoff.

(2) and (3) Mitigation Measures No.2 and No.3 which were adopted in the 2009 EIR continue to apply to the project to reduce the impacts to the coastal cutthroat trout and the water supply of the City of Trinidad.

4) Mitigation Measures No.2 and No.3 which were adopted in the 2009 EIR continue to apply to the project to reduce the impacts to the water supply for residents downstream of the project site.

(5) The project and all environmental analysis and documentation have been, and will continue to be required by law to undergo comprehensive public review.

Chapter 3 Revisions to the Draft EIR

***Note:**
Text with strikeouts means text has been deleted
Text with underline means text has been added

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Table ES-1

Impact Identifier	Impact	Mitigation Measure Identifier	Mitigation Measure	Level of Significance Following Mitigation
IS Section III.f)	Geologic problems involving erosion, changes in topography or unstable soil conditions from excavation, grading, or fill	IS MM 4	Areas disturbed during construction shall be revegetated as soon as practical prior to the beginning of the rainy season as required in the May 1995 SHN Geologic Report.	Less Than Significant
		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 leach fields.	

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Table ES-1

Impact Identifier	Impact	Mitigation Measure Identifier	Mitigation Measure	Level of Significance Following Mitigation
		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 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.	

Impact Identifier	Impact	Mitigation Measure Identifier	Mitigation Measure	Level of Significance Following Mitigation
			~~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 CalFire 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 of 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.	

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CHAPTER 3 – Settings, Impacts, and Mitigation Measures

EIR Mitigation Measure No. 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 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 CalFire 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.~~

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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. 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 of 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.

Page 6-2

Table 6-1

Impact	Mitigation Measure Identifier	Mitigation Measure	Implementation	Monitoring	Time Span
	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 leach fields.	County of Humboldt Building Division shall verify	County of Humboldt review of building permits and record of inspection	With individual building permits

Page 6-7 and 6-8

Table 6-1

Impact	Mitigation Measure Identifier	Mitigation Measure	Implementation	Monitoring	Time Span
	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 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~~	County of Humboldt Public Works Division shall verify	County of Humboldt Planning Staff shall send affected property owners twice yearly notices of dry weather water withdrawal restrictions. Such notices shall include recommended dates to ensure tanks are full and the dates during which	Tanks installed prior to Final Map or waiver. Notices send to property owners annually for five years following approval of building permits

Impact	Mitigation Measure Identifier	Mitigation Measure	Implementation	Monitoring	Time Span
		~~facility capable of meeting the needs described herein~~. Residential water storage quantities shall be above and beyond the 2,500 gallons required by CalFire 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~~.		water withdrawals are prohibited	
	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 of 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.	County of Humboldt Public Works Department shall verify	County of Humboldt review of improvement plans and public works inspection records	Equipment shall be in place prior to approval of Final Map or Waiver

Table 3-1
Mitigation and Monitoring Program

Impact	Mitigation Measure Identifier	Mitigation Measure	Implementation	Monitoring	Time Span
IS Section I.a) Conflict with plans and policies	IS MM 1	Adams Fox Farm Road shall be improved to a Road Category 4 roadway as approved by the Land Use Division of the Department of Public Works from Westhaven Drive through the subject property.	County of Humboldt Public Works Department shall verify	County of Humboldt record of Public Works inspections	Completed
	IS MM 9	The onsite sewage disposal systems shall be developed on the parcels in accordance with the County's sewage disposal regulations, and shall be located at least 100-feet from the stream transition lines of Luffenholtz and Deadman Creeks.	County of Humboldt Division of Environmental Health shall verify	County of Humboldt record of inspection	With individual building permits
IS Section III.b) Seismic ground shaking	IS MM 2	The residential structures shall be of wood-frame construction, built in accordance with the latest edition of the Uniform Building Code for the highest seismic zone (Seismic Zone 4).	County of Humboldt Building Division Shall verify	County of Humboldt review of building permits and record of inspection	With individual building permits
	IS MM 3	Any residential development proposed outside of the approved building envelopes as shown in the May 1995 SHN Consulting Engineers and Geologists Preliminary R-1 Geologic and Geotechnical Report shall require further geologic testing.	County of Humboldt Building Division Shall verify	County of Humboldt review of building permits	With individual building permits
IS Section III.f) Erosion and grading	IS MM 4	Areas disturbed during construction shall be revegetated as soon as practical prior to the beginning of the rainy season as required in the May 1995 SHN Geologic Report.	County of Humboldt Building Division shall verify	County of Humboldt record of building inspections.	With individual building permits

Impact	Mitigation Measure Identifier	Mitigation Measure	Implementation	Monitoring	Time Span
	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 leach fields.	County of Humboldt Building Division shall verify	County of Humboldt review of building permits and record of inspection	With individual building permits
IS Section III.f) Erosion and Grading	IS MM 7	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, non-erodible 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,	County of Humboldt Building Division shall verify	County of Humboldt review of building permits and record of inspection	With individual building permits

Impact	Mitigation Measure Identifier	Mitigation Measure	Implementation	Monitoring	Time Span
		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. Off-site 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 Department of Fish and Game 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: a. 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. b. 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.			

Impact	Mitigation Measure Identifier	Mitigation Measure	Implementation	Monitoring	Time Span
	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.	County of Humboldt Public Works Department shall verify	County of Humboldt record of Public Works inspections	Prior to approval of Final Map or Waiver
IS Section VI.b)	IS MM 1	As above	As above	As above	As above
Hazards from design features	IS MM 6	A school bus turnaround area shall be provided on the subject property adjacent to Adams Fox Farm Road as shown on the Improvement Plans for Fox Farm Road.	County of Humboldt Public Works Department shall verify	County of Humboldt record of Public Works inspections	Completed
IS Section VI.c) Inadequate emergency access	IS MM 1	As above	As above	As above	As above
IS Section VI.e) Hazards to pedestrians and bicyclists	IS MM 1	As above	As above	As above	As above
IS Section VII.d)	IS MM 7	As above	As above	As above	As above
Wetland Habitat	IS MM 9	As above	As above	As above	As above
IS Section VII.e Wildlife migration	IS MM 7	As above	As above	As above	As above
IS Section	IS MM 1	As above	As above	As above	As above

Impact	Mitigation Measure Identifier	Mitigation Measure	Implementation	Monitoring	Time Span
IX.b) Emergency response					
IS Section IX.e) Wildland fire hazard	IS MM 8	Residential development shall comply with Humboldt County Fire Safe Ordinance and shall include: a. Defensible space of at least 30-feet from all structures to property lines. b. A 2,500-gallon emergency water storage tank for each parcel. c. Street names, addresses, and water sources shall be clearly marked where visible from the public road d. Roadway and driveway grades shall not exceed 16%. e. Disposal, including chipping, burying, burning, or removal to a landfill site approved by the County, of flammable vegetation and fuels caused by site development and construction, road and driveway construction, and fuel modification, shall be completed prior to completion of road construction, or final inspection of a building permit or initiation of a use under a use permit. f. Sample Codes, Covenants, and Restrictions shall be written prior to recordation of the Parcel Map which specifies the future landowners' responsibility in maintaining their property in order to comply with State Fire Regulations and the County [Fire Safe] Regulations.	County of Humboldt Building Division shall verify	County of Humboldt review of building permits and record of inspections	With individual building permits
IS Section XI.a) Fire protection services	IS MM1	As above	As above	As above	As above
	IS MM 8	As above	As above	As above	As above
IS Section	IS MM 1	As above	As above	As above	As above

Impact	Mitigation Measure Identifier	Mitigation Measure	Implementation	Monitoring	Time Span
XI.d) Maintenance of public facilities	IS MM 8	As above	As above	As above	As above
	IS MM 10	As above	As above	As above	As above
IS Section XIV.a)** Paleontological Resources	IS MM 11	If any paleontological, archaeological, or historical resources are discovered during construction, all activities must cease and a qualified cultural resources specialist contacted to analyze the significance of the find and formulate further mitigation (e.g., project relocation, excavation plan, and protective cover.) pursuant to California Health and Safety Code Section 7050.5, if human remains are encountered, all work must cease and the County Coroner contacted.	County of Humboldt Building Division shall ensure notation of requirement on building permits	County of Humboldt building permit review	Individual building permits
IS Section XIV.b)** Archaeological Resources	IS MM 11	As above	As above	As above	As above
IS Section XIV.c)** Historical Resources	IS MM 11	As above	As above	As above	As above
SEIR Section 3.2.1 Sensitive Species	EIR MM 1	The provisions of 1997 IS Mitigation Measure 7 shall continue to apply to the project throughout the remainder of the project, including periods of vegetation removal to clear existing building pads, grading or re-grading of such pads, and any construction activities which may occur on the subject site.	County of Humboldt Building Division shall verify	County of Humboldt building permit review and record of inspection	Individual building permits
	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	County of Humboldt Public Works Division	The County of Humboldt Planning Division shall send affected	Tanks installed prior to Final Map or waiver. Notices send

Impact	Mitigation Measure Identifier	Mitigation Measure	Implementation	Monitoring	Time Span
		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 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.	shall verify.	property owners twice yearly notices of dry weather water withdrawal restrictions. Such notices shall include recommended dates to ensure tanks are full and the dates during which water withdrawals are prohibited. Further, the Planning Division shall annually verify through field visits and review of the required flow meters that the property owners continue to comply with the requirements of the adopted agreement.	to property owners annually for five years following approval of building permits
	EIR MM 3	To avoid excess short-term withdrawals during the periods in which the tanks required by EIR 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 of 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	County of Humboldt Public Works Department shall verify	County of	Equipment

Impact	Mitigation Measure Identifier	Mitigation Measure	Implementation	Monitoring	Time Span
		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.		Humboldt review of improvement plans and public works inspection records	shall be in place prior to approval of Final Map or Waiver
Cumulative Effects	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.	County of Humboldt Planning Division shall prepare policy	Planning Commission or Board of Supervisors Resolution establishing policy	Within 12 months of approval of Parcel Map Subdivision