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Chapter Five  
Response to Statements & Submittal from Meetings

## CHAPTER FIVE

### STATEMENTS

**August 25, 2001 Meeting of the Fish Camp Advisory Council** [Note: Summary of comments is based on the transcript of the meeting submitted by Gibson, Dunn & Crutcher, LLP, letter dated September 28, 2001, Appendix E of this Final EIR.]

**Statement 1SA:** Richard Ryan: I have eight different things to bring up that I hope will be addressed in the EIR. The proposed development is an urban use in a small village surrounded by a national forest at the gateway to the gem of the national park system. It is proposed to be a conference center, when what we, as a gateway community, should be serving Yosemite, not trying to attract people. It's in conflict with Fish Camp's Specific Plan. I can't see why developers should be able to come up here, buy property, and then say we don't like your plan. You've established a plan, why don't you stick with it?

**Response:** Comment noted. The comment does not raise a significant environmental issue for which a response is required.

**Statement 1SB:** Specifically, it was very clear that the meadow and the wetlands on the site are already disturbed. There are drainage ditches all across it. I would like to have the EIR address how the present developer is going to mitigate that damage.

**Response:** See Response to Comment 5.1B.

**Statement 1SC:** The Draft EIR contains no geology; no geological strata are described. This is not the 19<sup>th</sup> century. We don't have to go about pumping on a well for a few days and try to draw inferences from that. Good geological data is available and can model very well the impact of this very large drawdown to the water table, the influence of applying treated sewage on the hillside above existing community wells. There is no data to back the conclusion that there is no impact. I would like to know when the geological data will be incorporated into the EIR. I also ask whether this EIR is premature and should be withdrawn because the data isn't there.

**Response:** See Response to Comment 12C.

**Statement 1SD:** The project is designed as a single development and yet they propose to divide the property up into four parcels. Is this one project or is it four? Will the entire project be undertaken as a single unit? Will there be completion deadlines? Will bonds be posted to ensure completion according to the plan, or will future users, property owners buy these different parcels, come in and want to make their own changes and therefore this EIR doesn't apply?

**Response:** See Responses to Comments 6A and 12E.

**Statement 1SE:** The project shows single family residences where the leachfields for this project are proposed. Which is it – leachfields or single family residences?

**Response:** See Response to Comment 12F. The Revised Draft EIR has discussed and proposed a mitigation measure to eliminate any potential land use conflicts related to the Single Family Residential designation on the project areas designated for sewage leachfields. This impact and the mitigation measures are discussed on page 3-2 of the Revised Draft EIR.

**Statement 1SF:** There is a convenient contradiction between the purported ground water recharge and the lack of impact of this 50-fold increase in water usage upon existing community wells. Rainwater is going to percolate down and recharge the water supply, yet they say that their pumping 50 times the current usage of water isn't going to draw down the water table. They say that putting effluent on the land up above isn't going to reach the wells, but rainwater will. Which is it?

**Response:** See Response to Comment 12G.

**Statement 1SG:** There are some specific numbers in Table 3.4-2 and 3.4-4 which are not consistent with regard to nitrogen which converts to nitrate, which there are drinking water standards for. The total Kjeldahl numbers as a means of analysis for nitrogen in Table 3.4-2 for Tenaya Lodge implies a nitrate level far in excess of a factor ten, greater than drinking water standards. They say their own water will be six times less, and yet even at six times less, those numbers convert to nitrate levels in very close to drinking water standards.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity, and Responses to Comments 7RB, 7RC, 7RD and 21RA.

**Statement 1SH:** Lloyd Carter: I'm the President of California Save Our Streams Council. We have been around for 20 years. We're a nonprofit 501-C group dedicated to protecting American creeks and streams. I'm an attorney, although I am not here in the capacity of an attorney. I haven't made up my mind on the project, I haven't had a chance to familiarize myself with it yet. I hope that in the future there will be better public notice. I see it's actually been before the County for a couple of years before it got to this stage. I would hope that in these next 90 days, when you notice the public hearing, or when the County does so, you put something in the Fresno Bee and at least in the Central California area, because the project would be an issue of concern to more folks than just those in Fish Camp and Mariposa County. The Sierra is a treasure to everyone in California.

**Response:** Comment noted. The comment does not raise a significant environmental issue for which a response is required.

**Statement 1SI:** I'm not familiar with the developer, PacificUS Real Estate Group. Are they a subsidiary? Is there a parent company? Is there any foreign ownership? Last week there was a letter from the County to PacificUS in which Fresno developer attorney Jim McKelvey is carbon copied. What is Mr. McKelvey's relationship to the project? Just a land use attorney?

**Response:** Ron Coleman responded that there is no foreign ownership. The questions do not raise a significant environmental issue for which a response is required.

**Statement 1SJ:** My concerns are limited to whatever potential impacts are on Big Creek. Apparently the treated wastewater will be recycled in some sense for use on the lawns, which we completely support as a good conservation measure, but apparently there will be some ground water flow of the treated wastewater which will reach the creek, which is estimated in the EIR at 13.6 acre feet. An acre foot of water is 325,851 gallons, which means about 4 million gallons plus of this water will be entering the creek each year. If you know anything about wastewater treatment, it generally works, but anytime you have humans involved, things can and do go wrong. So the assurance that wastewater has been “treated”, the inference being that it’s been rendered safe and harmless to the receiving waters, would certainly be suspect. Things can go wrong in wastewater treatment and they routinely go wrong. As part of Save Our Streams, we have had problems with the Fresno River in Oakhurst and the wastewater treatment plant in Bass Lake occasionally has problems, particularly in storm events. I urge this Committee and the Planning Commission to look very carefully at the wastewater that is going to be flowing under the surface into Big Creek and that they be very careful of the determination as to what the constituents of that treated wastewater would be and what the potential impacts would be to the creek.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity.

**Statement 1SK:** Save Our Streams has a general philosophy which opposes any use of a creek as a sewer line, whether it be from a pipe, over land, directly into a creek or through a subsurface flowage easement of “treated” wastewater. One of the mitigation measures that the developers might want to consider would be to introduce interceptor lines downstream from the leachfield between the project and the creek, which will catch this water migrating toward the creek, so that it could be recycled.

**Response:** The proposed wastewater treatment facility does include a water reclamation facility, which is described in the Revised Draft EIR, Section 3.4, Water Quality and Quantity, pages 3-19 through 3-21. This discussion also explains the selection of the proposed process and facilities. Also, see Response to Comment 2SLL.

**Statement 1SL:** Save Our Streams will oppose any introduction of treated wastewater into that creek as a general principle because it’s time we quit using our creeks as sewers in California.

**Response:** Comment noted. This is a statement of principle and no response is required.

**Statement 1SM:** Diane Stewart: I have a lot of concerns with the EIR and the backgrounds in biology. I very much agree with the statements of Lloyd Carter regarding the wastewater runoff into the streams. Big Creek is a tributary of the Merced River, which is a federally designated scenic river and a big concern not just locally but nationally.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity. With regard to the comment on biology, it is not possible to respond to a comment this general in nature.

**Statement 1SN:** I'm concerned about a CEQA lawsuit. Who would pay, because the loser is required to pay, and that means the taxpayers. When that's challenged, I don't want to pay for a lawsuit that contradicts the will of the people in the first place.

**Response:** Comment noted. The comment does not raise a significant environmental issue for which a response is required.

**Statement 1SO:** I come from a tradition of town halls and township meetings, and I'm very concerned about the fact that the residents of Fish Camp made a Specific Plan 20 years ago that is still accepted by the residents today, the zoning has been established, and the fact that somebody can come in from the outside and say that's worth nothing and should be overturned just seems un-American.

**Response:** Comment noted. The comment does not raise a significant environmental issue for which a response is required.

**Statement 1SP:** Jack Hoover: I'm the acting Chairman of the Yosemite Alpine Services District. We are very concerned over the SilverTip Lodge project as it affects the district in many ways. Lots one and two of the District are located on the west side of Fish Camp Lane and the District, along with the developer, wanted to be a part of the County road system so that property owners in our District and the SilverTip project would have a joint outlet to Highway 41. A stop sign should be installed at the intersection of Silvertip Lane and Fish Camp Lane before either vehicle can proceed to Highway 41 to prevent a gridlock at the intersection.

**Response:** A traffic study was prepared for the proposed project by VRPA Associates, which was peer-reviewed for the Draft EIR by Fehr & Peers Associates (see Appendices S and T of the Draft EIR). The traffic study recommends roadway improvements to accommodate the proposed project. The traffic study did not conclude that warrants would be met to place a stop sign at that location.

**Statement 1SQ:** Silvertip Lane and Black Pine Way are maintained by the District for autos and light trucks and were not built or maintained for any heavy trucks at any time. Therefore, Black Pine Way will not be available for use by the SilverTip project.

**Response:** The project does not propose to use Black Pine Way. Mitigation Measure #14 of the Draft EIR (p. 3-52 and 3-53) requires that access to all project facilities shall be provided on the project site, unless contractual access agreements or easements are executed with the owner(s) of off-site private roads.

**Statement 1SR:** We are very concerned about the water supply for the District, supplied by two wells in the meadow for the last 30 plus years. One is next to the presently small stream on the south side of the meadow, and the other is north of the post office. It appears by drawings in the EIR as being in a pond or a swimming pool. The proposed leachfield site will likely leach toward our wells and cause possible contamination. The height of the loop road would make it difficult to get access to our wells for any repairs by a well rig. Yosemite Alpine Community

Services District has a deed of right of way to our wells and to our control building on Fish Camp Lane.

**Response:** Comment noted. See Revised Draft EIR, Section 3.4, Water Quality and Quantity. Mitigation Measure #15 of the Draft EIR (page 3-53) requires the developer to provide the Yosemite Alpine CSD and all other utility owners with facilities that cross the project site with access easements for maintenance and operation of wells, pipelines and electric lines. If any facilities need to be relocated to accommodate the proposed project, the developer is required to reach agreement with the utility owners to relocate the facilities as necessary to ensure that all necessary utilities can be extended and not interfere with their safe and efficient operation.

**Statement 1SS:** How will you prevent contamination of our water wells while the project is being constructed? Are you putting the leachfield so you can avoid the National Pollutant Discharge Elimination System requirements? We understand that you have operated wastewater treatment plants in other projects. What has happened to the companies that operated those plants?

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity. Mitigation Measure #09R (pages 3-52 and 3-53) of the Revised Draft EIR requires the project developer to design, install and maintain onsite pollutant control measures during project construction as required to ensure NPDES compliance, receipt of State Water Resources Control Board Construction Activity Storm Water Permits, and to comply with Mariposa County Erosion and Sedimentation Policies for Construction Activities, and the Topography and Soil Erosion requirements of the Fish Camp Town Planning Area Specific Plan. The decision to utilize leachfields rather than a surface water discharge to Big Creek is based on the conclusion that it would not be feasible from a dilution ratio standpoint during potential “low flow” conditions, as described on page 3-29 of the Revised Draft EIR. The question regarding operation of other plants does not raise a significant environmental issue for which a response is required.

**Statement 1ST:** Jan Davidson: I’m a medical assistant, clinical administrator, and property owner. My avocation is animal rescue husbandry and veterinary medicine and I am also chapter leader for the House Society of Southern Yosemite. I have great concern for impact of our wildlife in this area because of the project. Impact 3.2-8 of the EIR begins with the acknowledgement that there will be “increased wildlife mortality due to collisions with traffic due to increased congestion by the proposed project.” Will this project provide the money and personnel needed to attend to injured and dead animals on highways and our properties? Will the project provide emergency services to persons hurt in accidents with these animals? Will this become yet another burden on the local taxpayers when we have to involve CHP or Caltrans for assistance?

**Response:** See Response to Comment 51A. Mitigation Measure #05A has been added to the Draft EIR to address this issue.

**Statement 1SU:** Fresno Wildlife Rehabilitation is the only general wildlife rehab group in the area. What arrangements and or interactions have occurred between the project and that organization to arrange for the care, maturation and rehabilitation of the possibly many disabled

or immature animals, coyote, bear, Douglas squirrel, etc., that will be found over the course of the proposed construction, which will certainly extend over at least a breeding season?

**Response:** See Response to Comment 51A.

**Statement 1SV:** Has Caltrans adopted a highway representative responsible for the two-mile portion which encompasses the entire town of Fish Camp?

**Response:** The question does not raise a significant environmental issue which requires a response.

**Statement 1SW:** I see injuries, deaths and auto accidents on a regular basis. Construction and occupancy of such magnitude as the proposed project places additional significant burden on an already heavily traveled area. I would like to know specifically and precisely what financial and physical provisions have been made to address these issues.

**Response:** See Response to Comment 51A.

**Statement 1SX:** Pam Ferris: I'm a property owner in Fish Camp and also chairman of the Property Owners Association. In June of 2000, a public meeting was held at the Tenaya Lodge in which the town plan was voted to remain as-is. Many public officials were present, including the County Counsel Jeff Green, who promised that this project would be subject to Fish Camp's TPA as re-adopted by ordinance that day. Decisions were made regarding the betterment of the community and maintaining a quality of life. How can this be ignored?

**Response:** Comment noted. The comment does not raise a significant environmental issue for which a response is required.

**Statement 1SY:** I'd also like to mention the merging of three parcels into one in attempting to create four. These four parcels would be able to be sold off in individual sections. On this plan, there is only one very large septic system. If the restaurant or the hotel which would be on separate parcels have problems with the system, how are other systems going to manage? Who will take away the waste that might back up, or who will manage the one system for all the different properties? Maybe the parcels should remain in one APN rather than be broken down. Is Mariposa County going to take the responsibility for hauling away waste if the system is overloaded or the owners can't agree?

**Response:** See Response to Comment 6A and the Revised Draft EIR, Section 3.4, Water Quality and Quantity. The project includes an on-site wastewater treatment plant, not one very large septic system. See Response to Comment 12E with regard to management and operation of the wastewater treatment system and facilities.

**Statement 1SZ:** Unidentified Person: Why were the color photo plates beginning on page 3-108 of the Draft EIR taken in wintertime, when the meadow does not look its best and then the photographs used for the photosimulations of the proposed lodge were taken in the summer. What is the reasoning for that sort of distinction?

**Response:** The comparison on the same page where you see the “before and after” photosimulations with regard to the photosimulation, there are pull-outs that you see before and after at the same moment. Photoplate Figure 3.7-1 and 3.7-2 are just photographs showing the property which happened to be taken in the winter of 2000 when work was first started on the EIR. The photosimulations were ordered at a later date.

**Statement 1SAA:** What is the purpose of the 2-1/2 acre single family residential parcel, when would it be developed, and is it part of the overall project?

**Response:** See Response to Comment 12E. It will not be developed as part of the overall project; the timing of development on that parcel is unknown.

**Statement 1SBB:** Kirk Helland: I’m a property owner in both Wawona and Fish Camp. I have a question for Supervisor Pikard, how would you like to have a half-million gallon sewage pond put next to your home in Mariposa County on land which is zoned for single family homes only? How many half-million gallon sewer ponds and leachfields are currently in place on residentially zoned property in Mariposa County? Page 3-70 of the Draft EIR states the full design capacity of the leachfield is 70,000 gallons a day.

**Response:** Comment/questions noted. The comment/questions do not raise a significant environmental issue for which a response is required.

**Statement 1SCC:** The Draft EIR fails to address the following: contamination of soils on properties adjacent to and down slope of the proposed development; the likelihood of saturating soils and the leachfields adjacent to the proposed development within the Yosemite Alpine Village community, and thus rendering them unusable; and is Mariposa County willing to assume liability for substantial damages to these neighboring properties? Figure 2-6 of the Draft EIR, the proposed zoning map, locates the half-million gallon sewer pond on land zoned single family residential. This is specifically in violation of the Fish Camp Specific Town Plan, however 3.10 states “Uses proposed on project site to be designated single family residential one-acre are allowed” “planned unit development overlay”, however, this is not true. I have a letter from Eric Toll, an overlay, or its actual legal term, combining zoning district, is a zone that adds additional regulations and standards to the underlying or base zone district. Furthermore, combining zones cannot (a) increase density over base zone; (b) add permitted uses not permitted in a base zone; or (c) be used to get around the purpose of a base zone.

**Response:** See Response to Comment 46F with regard to location of the wastewater treatment plant and emergency storage pond. With regard to potential soils contamination, see Revised Draft EIR, Section 3.4, Water Quality and Quantity, specifically Impact #3.4-2 and Mitigation Measures #02R, #03R, #04R, and #06R (pages 3-44 through 3-50). Assumption of liability is not an environmental issue which requires a response.

**Statement 1SDD:** I’d like to address the incompatibility of the proposed project with the Fish Camp Specific Plan. The Draft EIR states that the local residents’ wishes, health, and

agreements about land use can be easily overridden by the County Supervisors simply by revising our specific plans to suit someone else's agendas.

**Response:** The comment does not raise a significant environmental issue for which a response is required. See Revised Draft EIR, Chapter Two, Project Description, Section 2.2, Specific Plan Text Amendments, which are proposed by the project applicant.

**Statement 1SEE:** Lou Aceto: I'd like to go on record as opposing all but the 8 acres that is already zoned commercial for commercial use. Having personally gone through this experience with CEQA, you have no recourse other than a lawsuit. CEQA gives total authority to the Mariposa Board of Supervisors to disregard public input. All CEQA mandates is that they have to give you the opportunity for public input, but they will mitigate it, overrule it, acknowledge it, and mover forward on their own predetermined game plan. All that will leave is a lawsuit that becomes very costly. If the Committee opposes this resort project, they should stop it now. Do not allow anyone to come in and change your zoning. It's much easier to stick to your zoning now, and unless you have in writing from your Board of Supervisors where their position is with the TOT taxes, etc., I can almost guarantee you they already have approved this plan.

**Response:** Comment noted. The comment does not raise a significant environmental issue for which a response is required.

**Statement 1SFF:** Don Davidson: I'd like to start by picking a category to disagree, not necessarily individually refuting, but some of the issues that the EIR listed as insignificant, and therefore not necessitating mitigation. How one can conceive of a project of this size as not requiring some change in the law enforcement needed to serve it is beyond my imagination. The possibility was also considered insignificant of an increase in demand for solid waste disposal. To think that a hotel and project of this size is not going to generate extraordinary amounts of solid waste, human, waste, and not have a plan what to do with that human waste defined in the EIR is inconceivable.

**Response:** See Responses to Comments 48K and 70KKK.

**Statement 1SGG:** The impact of water use has not been adequately addressed. The test was done over a 30-day period of time. Our well was said to be one of the wells that would be looked at. It was never looked at. We don't believe a 30-day period can demonstrate, without any geological studies to define what the actual consequences of land are to the topography, that you can extrapolate the use of over 50 times the use of water over 50 years.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity, and Response to Comment 3RA.

**Statement 1SHH:** They considered insignificant the reduction in the number of sites available for housing in Fish Camp. When we came to this community we were told that it had 214 plots. I believe the 38 sites defined single family residential in this project were part of those 214. We are talking about a reduction in potential housing, which I consider the highest and best use of land. The 15 to 18 percent in reduction of lots for potential housing is not an insignificant factor.

**Response:** See Responses to Comments 52D and 52X.

**Statement 1SII:** One thing that was said to be a factor here is the economic production of the project, estimated at over \$700,000. Fish Camp has no interest in that because we can't get it. We benefited absolutely entirely zero from the development of the Tenaya Lodge. We produced approximately 30 percent of the TOT tax in this area, and derive essentially none of the benefit of that TOT tax. To think that this project is going to do anything positive for Fish Camp is a concept that is simply not conceivable. It's only going to produce more money for the County to spend on other areas.

**Response:** See Responses to Comment 52K. This comment does not raise a significant environmental issue which requires a response.

**Statement 1SJJ:** The 35-foot height problem was primarily done 35 to 45 feet because the project would then be economically not feasible. Economic feasibility as a land use concept is strange. If you take the fourth floor off the project it doesn't violate the height regulation.

**Response:** The Draft EIR (page 3-18, Impact #3.1-2) concludes that the height of the proposed hotel/conference structure is not consistent with the standards of the Fish Camp TPA Specific Plan, and that this impact is therefore considered significant. Mitigation for this impact (Mitigation Measure #02) requires an amendment to the Specific Plan (which would result in a potentially significant unavoidable cumulative impact on the community of Fish Camp), or redesign of the structure to not exceed the 35 foot height standard. Also see Response to Comment 69BB, which expands on this Mitigation Measure. Economic feasibility is not a factor in this conclusion. Chapter Four, Project Alternatives, evaluates a "Reduced Project Size" in which the hotel/conference structure would not exceed 35 feet in height (a 3-story rather than four-story structure). The chapter concludes (page 4-26) that this alternative would generate fewer impacts than the proposed project, and while it may not be economically viable, it would meet most project objectives.

**Statement 1SKK:** I don't see why we should be considering imposing on the full-time and part-time residents of our community a project is this size that violates our Specific Plan which is County approved. This is a violation of the regulations that exist. We are asking for a reversal of the commercial to real estate to single family residences allowed in this area, and on the single family residences, we're not going to have residences, we're going to have a sewer system.

**Response:** See Responses to Comments 18L and 52A. The County is obligated to process applications for development, although it is not obligated to approve them. With regard to the location of the leachfields, see Response to Comment 4RA.

**Statement 1SLL:** Eugene Glendenning: I'm not representing, but I'm also the president of Yosemite Alpine Home Association. Joanne Kipps, California Regional Water Quality Control Board, noted recently in written comments on the Draft EIR that a required degradation study was not conducted or included in the Draft EIR. The RWQCB noted in their response letter that the Draft EIR is incomplete and premature. CEQA requires that the degradation study must be

performed and included in the Draft EIR. Why hasn't the Draft EIR been recalled for completion? Why was the Draft EIR released with this requirement still not completed? What correspondence exists that shows that there might be knowledge that this was not released or should be released anyway? Who authorized the premature release of the Draft EIR?

**Response:** A Revised Draft EIR was published in September 2002 and circulated for public review. Section 3.4 of the Revised Draft EIR, Water Quality and Quantity, has been rewritten and supersedes Section 3.4 of the Draft EIR published in July 2001. It includes the anti-degradation analysis and RWQCB response (Appendix B, Revised Draft EIR). See Response to Comment 54BB.

**Statement 1SMM:** It appears that the wastewater portions of the Draft EIR attempt to circumvent the National Pollutant Discharge Elimination System. Why were these federal requirements circumvented? When will these requirements be addressed? When will people have an opportunity to review and comment on them?

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity, and Response to Comment 54CC.

**Statement 1SNM:** It's unfortunate that yesterday's tour and today's presentations was not really what the developer intends to do with the property. What is being proposed yesterday in the walk around, and what is being shown today, is solely a front to get a Draft EIR and a project approved so the next step can be taken.

**Response:** Comment noted. This comment does not raise a significant environmental issue which requires a response. The proposed project includes a Planned Unit Development application and a Conditional Use Permit application. If approved, the project must be constructed in accordance with the approved plan and conditions of approval.

**Statement 1SOO:** It is my understanding that the three parcels, specifically with respect to wastewater treatment being a center point of this issue, will create a situation for Fish Camp that is going to very unrealistic for the long run. Because of the apparent financial limitations of the developer, Parcel 1 may be sold off to fund the construction of the hotel complex. The wastewater component for Parcel 1 is simply a pipe that leaves the premises. There is no on-site component. The pipe will ship that from Parcel 1 where the hotel will reside to Parcel 2 where the wastewater treatment plant will then have staff to maintain it. Then the waste will be shipped from Parcel 2 to Parcel 3, which will include what will be built on Parcel 3, but a portion of Parcel 3 will contain the leachfield and spray system, the leach lines at the end of the sewer system. The developer has stated that they may also sell off Parcel 3. This has been addressed by Yosemite Alpine Village Association and YCSD. We requested in writing that they consolidate these three parcels and proceed under a single ownership as a single parcel. We had a rejection of that request and offer.

The developer proposes to create a separate corporation to operate the commercial wastewater facilities for all three potentially different owners of these parcels. This creates a risky scheme for the County and taxpayers of Mariposa. How will the waste will be managed on these three

lots with separate ownership? Who will be the corporation responsible for the management of the wastewater treatment, and how will they be funded? If the developer's financially incapable of constructing the proposed project as proposed, then how secure will the funding be for the wastewater treatment operations? What insurance bonds will be required to protect the community and County of Mariposa? Will the County of Mariposa accept responsibility for any and all liabilities not covered by insurance or bonds if this corporation fails to meet the financial responsibilities or if the corporation ceases to exist?

**Response:** See Responses to Comments 54M and 54N.

**Statement 1SPP:** Doris Ryan: I'd like to address the proposition that the Fish Camp Specific Plan was a contract between the residents of this community and the specific agencies of Mariposa County. A contract implies mutual responsibilities, an honest demeanor in the future, and construction of this project would violate that promise. The Tenaya Lodge was zoned commercial but it was also more than doubled by the time construction was completed. If a certain amount of this area was to be appropriately commercial, then maybe it's been done. No more than the original 8 acres provided in the present zoning should be sufficient.

**Response:** Comment noted. This comment does not raise a significant environmental issue which requires a response.

**Statement 1SQQ:** We need to know how these proposed mitigation measures would be funded. It's perfectly normal procedure to expect a bond to ensure compliance, and I think there's reason to suspect that with the shifting nature of this proposal, the applicant might not be able to provide that in a timely manner.

**Response:** See Response to Comment 54M, which states that the conditions of the Planned Unit development permit to be issued by the County will establish financial performance requirements, if the project is approved, and Response to Comment 54L, which states that fees payable by the developers will be dealt with during deliberations on the PUD and during subsequent permit issuance.

**Statement 1SRR:** Charles Franklin: My family has had a cabin at Fish Camp for over 60 years. I'm a retired certified public accountant and during my career I served on the California Society of CPA's Committee on Accounting Principles and Auditing Standards. One of the things that we stopped was projections for real estate developments without the proper background, facts, and this project is one of those, and it is illegal, immoral and probably inaccurate. This project belongs on the parking lot at the Rose Bowl, not in Fish Camp.

**Response:** Comment noted. This comment does not raise a significant environmental issue that requires a response.

**Statement 1STT:** Barbara Taylor: Mr. Smith said the impacts on the water systems of Fish Camp would be less than significant. I and many others live on Subdivision D which is the subdivision just west down the hill. There are 26 cabins located there, four lots, and we have been provided water for 57 years by the Yosemite Resort Properties Water System. The subdivision was

created in 1944, and the system consists of two springs, an 85,000 gallon tank that we paid into, Well No. 4 and a pump that was added in 1991, and we have found that the combination of these systems works very well and provides us water.

There was some misinformation in the Draft EIR regarding licenses and so forth. People in Block D have done research and found that the first spring was dedicated to Block D in 1944 for domestic and recreational purposes. The second spring was added in 1955 and was specified for domestic use only. Domestic use precedes or is honored above commercial use. Page 3-58 of the Draft EIR contains verbiage that these spring licenses state that beneficial use shall be at the Fish Camp resort. We have those licenses and I don't see anything that says that our system has been integrated with the Fish Camp Resort for 57 years. It's not less than significant to us. What happens to our water?

We were informed in October of 1999 that this system will be taken away from us, and that was not received with great elation from our group. We feel that much is being presumed on the part of the developers in this regard because we haven't discussed in any detail except through our attorneys how we feel about it. We are resisting having anything else, the developers talk about a contemplated well and we don't know what well they are talking about. They are talking about a pressurized system which will not work in the winter, or with electrical problems that we have up here, they are talking about using the only tank that you saw on the walk around yesterday, the 85,000 gallon tank that people of Subdivision D paid into. Developers apparently need that water in the tank, but as residential uses, we need it for fire protection. Without a tank we might not be able to get fire insurance, and this is not less than significant.

I'd like to ask that there be a rigorous analysis for water, the needed water and projected need of water for Subdivision D. If a project such as this moves ahead, theoretically you could have all the cabins rented or lived in full time. That has to be done, all water issues in Fish Camp need to be addressed and resolved before you ever seriously consider this project.

**Response:** See Responses to Comments 2A, 44A, 45D, 69F, 11RA, 17RC and 17RF.

**Statement 1SUU:** Sandra Wood: What are you going to do about Highway 41? It was built in the 1930's and was not built to accommodate a hotel resort area with tour buses for Fish Camp. It will be a stopping ground. They'll stay at the hotels here, then they'll go on their tours into the valley, and there's going to be many more tour buses coming through here. It's not built to accommodate all this traffic, and more and more traffic coming through with another hotel, and how many more hotels will be coming through here? It's dangerous now and it will be even worse.

**Response:** A traffic study was prepared for the proposed project by VRPA Associates, which was peer-reviewed for the Draft EIR by Fehr & Peers Associates (see Appendices S and T of the Draft EIR). The information is presented in Section 3.6 of the Draft EIR, which describes impacts associated with the proposed project and mitigation measures to address those impacts, including impacts on Highway 41.

**Statement 1SVV:** Angela Wells: I'd like to begin by asking for a list of investors and parties that are working together on this project from Mr. Coleman? I asked for the correspondence from all of the various departments at the County level so I can see that actual correspondence and judge for myself if everything had been included in the Draft EIR, and Eric Toll said that it was either in the EIR or in a file you have there at the office. Unless you have the actual correspondence from the departments, it's certainly not in the Draft EIR, so I would like to see the correspondence from the department heads that indicate, based on their wording, not the developer's wording...Has the County required the developer to pay in advance any environmental impact fees for the potential impacts that will be created by the services needed for this development? From what I can see, that has not occurred.

**Response:** The question regarding investors does not raise a significant environmental issue that requires a response. As indicated by County staff, correspondence from County departments (as well as other agencies and individuals) is included in Appendix A of the Draft EIR. Comments by County departments on the Draft EIR and the Revised Draft EIR are included in the Final EIR. Additional, non-EIR correspondence would be available in project files in the County Planning Department offices. Those files may be reviewed during normal business hours. With regard to fees, see Response to Comment 54L.

**Statement 1SWW:** You have the National Park Service dictating that this project will require addressing public regional transportation issues, now you add that to the fact that you are going to have egress coming out of the park, Wawona, Tenaya and Fish Camp, and a major wildfire, and you've got big problems in terms of getting people out of this place safely. Sheltering for two hours is not going to work with a group of people who will be facing an oncoming fire. The proposed project adds to the burden of limited road capacity for safe egress in the event of a major conflagration. There's a serious danger of adding additional visitor capacity to an area adjacent to the Yosemite National Park. In a major conflagration, gridlock would immediately occur given the volume of people egressing from the National Park, combined with people who are evacuating from Fish Camp, Tenaya Lodge, local businesses and residents. This project would adversely affect the safe evacuation of Wawona, Yosemite and the local area. Evacuation would be limited to one-lane egress.

Where is the traffic study, County Fire Department study, and project emergency evacuation plan in the event of a major wildfire? The proposed mitigation does not address the reality of human behavior or human reaction in a life-threatening situation. Therefore, sheltering in place for two hours is an invalid mitigation. What would be the appropriate mitigation for this situation?

Where is the emergency plan, evacuation plan, sheltering plan for this project, as it will exacerbate the existing congestion caused by egress in major wildfire? How does this plan interrelate with Park's existing disaster plan, which they do not have? In a major wildfire situation, who will control crowd control, emergency vehicles' ingress and egress during a major conflagration? None of these major issues have been covered in the Draft EIR, and they should be.

**Response:** See Responses to Comments 54T and 54U.

**Statement 1SXX:** Karen Glendenning: I'm in a YV area, and my concern is what level of liability insurance and what period of time will Mariposa County and the developer/potential owner (because as I understand, PacificUS does not generally run the project, they develop) provide to Yosemite Alpine Service District for well contamination, pipeline damage, wellhead and other potential damages? We currently have an intact water system. We'd like to maintain that. Our water's pure, we would like to maintain that. What sort of assurances will the developer provide to Yosemite Alpine Service District to defend personal injury claims that will arise from contamination of wells and other damages? Now we may have medical bills from our people having ill health because of contaminated water. We may have people suing us. How will the County provide and protect us from that?

**Response:** This comment does not raise a significant environmental issue that requires a response. See Responses to Comments 54J and 54K.

**Statement 1SYY:** I have a concern about what provisions have been proposed in the Draft EIR to assure continuing access via existing easements for access of Yosemite Alpine Community Service District's wells. A lot of those roads I was walking on [on the walk around] I believe were steeper than the 12 percent grade that the County requires for driveways of the properties. We're going to have to have those lines cut up back and forth. I'm concerned about the roadway and the 12 percent grade adjacent to one of our wellheads near the resort lodge itself. We may be compromised with the service to our wellhead. Wells do fail, pumps fail, we need to be able to assure that our wells are serviced and maintained properly.

**Response:** See Responses to Comment 1SR.

**Statement 1SZZ:** This project is 47.3 acres of land. Mr. Keller sold three parcels totaling approximately 47 acres. PacificUS is proposing to redefine these parcels, one of which is the 2.5± acres which we understand would be Mr. Keller's private residence, pre-arrangement sold, given back to Keller for personal use. The current proposed density was based on 47.3 acres when in fact it really should reflect only 44.8± acres. Those 2.5 acres cannot be considered as part of the project.

**Response:** See Responses to Comments 54M, 54N and 54W. Also see Mitigation Measure #01R in the Revised Draft EIR.

**Statement 1SAAA:** The height of building they talking about as being proposed as 45 feet, and they show the schematic which asks for 45 feet. I understand the Building Department had concerns about the 45 feet tall, what defines as a building. If you have head houses for elevators and chimneys on there, you have to provide, by Building Code, to be able to get to head height of the elevator. If you do not have any building there, the elevator shaft would not be there. We need to respect our head height requirements. I do not wish anybody having to go up that high. We do not have fire trucks capable of handling that height.

**Response:** As described in the Draft EIR, Impact #3.1-2, building height is measured as the vertical distance from the uphill side of a building to the highest point of a building above the

natural grade line. This standard is illustrated in Figure 3.1-5 of the Draft EIR. Also see revised Mitigation Measure #02 in this Final EIR.

**Statement 1SBBB:** My concern is the same with the water overdraft. They did testing of the wells, as I understand ISO, the assurance organization, and came through Fish Camp and also Wawona area, they redefined our needs. Tenaya Lodge has been required to put half-million gallons of water in tanks on-site for their fire needs. My personal opinion is they will probably also require this for SilverTip. Those million gallons will have to be pulled out of the aquifer prior to opening doors. I don't understand where that much water can come to recharge for others in the Fish Camp community to have any water left, then to roughly use a million gallons every two weeks. That's a lot of water to use and recharge in this system.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity, Impact #3.4-8 and Mitigation Measure #11R, and "Water Demand," pages 3-17 and 3-18. As explained in this section, maximum day water demand is only about one-third of the long-term yield of the water supply wells. Fire suppression demands exert infrequent peak demands on a water system. Required fire flows must be considered in water system design, but do not need to be included in the daily water demand. The storage tank is required to supply water to help meet the peak hour demands, as well as provide storage to meet fire flow requirements. The tank would be filled prior to occupancy of the hotel; however, it would not be emptied every two weeks, but only replenished as necessary after use for fire suppression or to supplement the daily supply should one or more wells go off-line.

**Statement 1SCCC:** Unidentified Speaker: I'd like to go on record as one of the people who opposes the project because my lot happens to be right on the corner of where the access to the project will be, and it would totally demolish the service that I've fought a lot for, which is to preserve the current environmental condition, not to develop.

**Response:** Comment noted. This comment does not raise a specific environmental issue for which a response can be provided.

**Statement 1SDDD:** Richard Ryan (additional statements): A thick document like this Draft EIR tends to intimidate people. It's 1,100 pages or something, there's probably ten pages of real meat.

**Response:** Comment noted. This comment does not raise a significant environmental issue which requires a response.

**Statement 1SEEE:** Unidentified speaker: I'm an analytical chemist with 33 years of experience in a national laboratory, this is my area. Well No. 5 tested for gasoline components. This was swept under the rug in the EIR as insignificant because it might be laboratory error. There's a known source of contamination nearby. This is a curiosity. There's procedures for assessing whether analytical results are reasonable and accurate. You go to three independent different laboratories, you take new samples, you get the results, you compare them. If there are discrepancies, you get those parties together and you resolve those differences. You don't just sweep them under the rug and say this is insignificant. The proposal is going to have 50 times

more water use than the current wells on that side. If there is a plume of contamination, which it looks likely, isn't it likely that that is going to suck this plume of water down into these domestic wells? This is a question that needs to be answered.

**Response:** See Response to Comment 12J. Also see Revised Draft EIR, Section 3.4, Water Quality and Quantity, "Localized Groundwater Contamination" (pages 3-34 and 3-35), which provides updated information on the contamination and remediation. Also see Appendix C of the Revised Draft EIR.

**Statement 1SFFF:** It is stated that the leachfields up there on the corner of this property will likely require the removal of a significant amount of forest cover. How will this destruction be mitigated? Won't there be increased soil erosion to Big Creek? This is worse than clear cutting; it's not just removing the forest, it's also disturbing the soil in order to put the leachfields in. It's not addressed.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity, Impact #3.4-3 and Mitigation Measure #08R (pages 3-50 and 3-51).

**Statement 1SGGG:** Mr. Don Davidson (additional statements): When the Mariposa County Fire Department reviewed this project, it was a single entity to be constructed and owned by a single entity. The Draft EIR section regarding Fire Department requirements becomes invalid and should be reconsidered and submitted to the public for review and statement if this project is approved as more than one parcel.

**Response:** See Responses to Comments 6A and 54N.

**Statement 1SHHH:** Why is the project being built in phases? Doesn't the developer have appropriate and adequate funding to build and run this project as a single project in its entirety, or at least to build it as a single project and then sell it in its entirety? If it doesn't, then is the County not on shaky ground to go into a venture with a developer whose financial resources seem somewhat limited? Is the County then not also assuming a liability that would ultimately be borne by the taxpayers, not just of Fish Camp but the taxpayers of the County if problems develop with the project?

**Response:** See Responses to Comments 6A and 12E. Liability is not a significant environmental issue which requires a response.

**Statement 1SIII:** I understand that this is a big cash cow development, but I think the welfare and well being of the citizens in general in Mariposa County needs to be considered if the County is going ahead with the project. If the parcels are allowed to be developed as three separately owned parcels, now this is excluding the deal that returns 2.5 acres of this parcel to the seller in order to meet some sort of density requirement, it seems that this will create an unnecessary and undue impact on the community with respect to construction timetables. These impacts include noise, construction operations, pollutants, wildlife mortality, increased congestion, as well as economic impacts on local businesses.

**Response:** See Responses to Comments 54M, 54N and 54W.

**Statement 1SJJ:** Fish Camp is a community where people go to and live in as a retreat. Now we're talking about commercializing Fish Camp. We've already commercialized it a great deal. We've got a hotel here twice the size that it was supposed to be. Doesn't that provide all of the economic development that we need in terms of hotels? Maybe that does have an influence on how much other economic development can occur in the form of hotels. The impacts are going to be prolonged if this project is approved and allowed to go forward as separate entities with no time frame for construction, no deadlines. The impact will be quite considerable on those people who the County may not consider terribly important, but they are the citizens of Fish Camp.

**Response:** The Revised Draft EIR, Chapter Two, Phasing Plan provides a tentative timetable or schedule for construction in Table 2.1.

**Statement 1SKKK:** The developer has stated his intentions not to build out the back cabins linked to the resort at this time. He further states that he is reserving how and when in a limited time frame to build out and develop Parcel 3, including time sharing units, condominiums and rental units, and those sorts of units develop no TOT taxes for the County. I think it's risky for the County to consider going into a project which is not really a project, but it's going to be three projects.

**Response:** See Responses to Comments 54M and 54N.

**Statement 1SLLL:** Eugene Glendenning (additional statements): It is a risky scheme to allow three separate parcels, and the primary agency respondents, specifically but not limited to the Mariposa County Fire Department and the California Regional Water Quality Control Board, looked at this project as a single project. They made their recommendations for fire protection, tanks, other aspects, as a single project but in reality it's wrong, so there was misinformation provided by these respondents. We want it known that this project will now allow three separate parcels and ownerships. Will the respondents (not individuals, but the major County and State agencies) be notified and given an opportunity to amend their submittals? What opportunity will the public then have to review and comment on these amended submittals?

**Response:** See Responses to Comments 54M and 54N.

**Statement 1SMMM:** The developer has stated to the Yosemite Alpine Village Association and Yosemite Alpine Community Services District their intentions are not to build out the back cabins linked to the resort at this time. The developer has further stated that they are reserving how and when an unlimited time frame to build out or even sell off Parcel 3 (the back cabins). It appears that the developer feels once they get a Draft EIR final for the project, that they can build virtually any development for any commercial use on the back side, they can sell it off for timeshare units, condominiums, rental units and the like. This is very important to the County from an infrastructure standpoint. If it becomes rentals, that changes the impact on schools. Mariposa County relies heavily on transient occupancy tax, TOT tax. The County is precluded from collecting the TOT tax on any of these other building scenarios that are alternatives in the EIR. If the developer wants to build what they say they want to build, then commit to it. The

County should be very aware that if they are planning on receiving additional revenues by TOT tax, if you whack off the whole back side of the high rent cabins and other resorts, all of the sudden your TOT taxes are probably just cut in half, so your net gain might not be what you think it's going to be. If they turn it into situations where individuals live, you are going to have infrastructure and people have additional families there, it could definitely change the burden significantly for both fire and the Sheriff's Department and the like.

**Response:** See Responses to Comments 54M and 54N.

**Statement 1SNNN:** Nadim Aziz: I oppose this development. I want to focus on three parcels versus one parcel. When we talk about this as one project, we are going to combine the existing parcels and convert those. I question the intentions of the developers and the public officers. What I'm seeing is that the plan from the developer is we will redistribute this thing to three parcels to make a case that it is not extensively developed, we have a lot of open spaces, and I think the plan is already in the company's mind down the road when they have all the approvals, when they have developed this development, they are already planning on selling it off, either other parcels, or develop any kind of commercial development on those parcels.

**Response:** See Responses to Comments 54M, 54N and 54W.

**Statement 1S000:** Angela Wells (additional statements): On September 24, 1999 Stan Allbright sent Jay Pawlek, Senior Planner at Mariposa Planning Department a letter stating the project should anticipate that regional transportation issues will continue to become complex and diverse. It is conceivable that this project could have the potential to increase traffic and transportation related impacts and compound the already heavy traffic volumes experienced in the area. These issues should be addressed during future CEQA actions and the project should participate in the development, implementation and accommodation of regional transportation solutions. We have YARTS working over in Mariposa, it's a County funded and federally supported program that, so far, has proven not to be successful. There is really no reason for YARTS to be running through this corridor to service either the Tenaya Lodge or this project. If you want to utilize smaller vans that are gasoline operated, that makes more sense than diesel buses running through this neighborhood. It will destroy the cultural fabric of this town. If you allow this project to go through, you are looking at a YARTS project in addition to this project.

**Response:** Section 3.6 of the Draft EIR addresses traffic impacts, based upon a traffic impact study prepared by VRPA Associates and peer-reviewed by Fehr & Peers Associates (see Appendices S and T of the Draft EIR). Mitigation Measure #32 requires the project to participate in the development of a regional transit system at such time as a system is established. The type of system (YARTS, smaller vans) that may be established is not specified, since it is not known at this time whether, or what type, of system may be established.

**Statement 1SPPP:** Richard Kunstman: I'm a resident of Midpines, not of Fish Camp, so my comments are not on the specifics but rather generalities. We've heard about impacts that are less than significant, nevertheless, those are impacts. There is no discussion of what a threshold is for significance. You need to look at that. There are impacts that can be mitigated and they speak of these things that will make these impacts less than significant. You need to see what is

meant by the threshold of significance. All of these are impacts to the Fish Camp community, and the obligation of the town planning commission is to look at the effects on the environment of the Fish Camp community. You've heard of overriding considerations, and I want to emphasize that CEQA means that there are overriding environmental benefits that offset the negative and adverse impacts, not economic benefits to the County in general.

**Response:** Both the Draft EIR and the Revised Draft EIR provide thresholds of significance for each subject area. See Chapter Three of the Draft EIR and the Revised Draft EIR, Impact Evaluation Criteria.

**Statement 1SQQQ:** Jan Davidson (additional statement): These are closing words for adjoining communities and taxpayers. Please stay tuned and watch what is happening in Fish Camp. This is what is happening here and everything that is happening here can happen to each of you and other communities as taxpayers and citizens.

**Response:** Comment noted. This comment does not raise a significant environmental issue that requires a response.

**Statement 1SRRR:** Angela Wells (additional statements): The impacts that will be created by this project are similar to impacts created by other projects. There has been no real assessment of any economic impact fees to the developer, and these are things that we need to look at. If you look at the Don Pedro Wastewater Facility problem, who is going to be paying for their problem? Who is going to be paying for problems that occur once the developer's long gone? That comes out of your tax dollars, your community, our community, the taxpayers. The burden falls on the taxpayers. I submit that the County Board of Supervisors and the Planning Commission are not thoroughly reviewing all of the long-term impacts that will ultimately be derived from this project and will ultimately cost you as greater taxes to taxpayers.

**Response:** See Responses to Comments 54M, 54L and 70YY.

**September 21, 2001 Planning Commission Meeting** [Note: Summary of Comments is based on the transcript of the meeting submitted by Gibson, Dunn & Crutcher, LLP, Exhibit A to Letter 70 dated September 28, 2001, Appendix A of this Final EIR.]

**Statement 2SA:** Neil Stonum: I'm here as a private citizen, not in any official capacity. I appreciate the consideration you people put in planning for the future of Mariposa County. In looking at the project before you, I have looked at the prospectus, and this looks like a very well thought-out environmentally sensitive project. Many of the concerns that we might have on a project like this have been addressed and mitigated. I think you folks know what it is to live in Mariposa. We talk about the giant sucking sound of our children escaping to go find better places to work and live. And I think when an organization that is as professional as this group that's come in, does come in and look at Mariposa, I think they ought to be encouraged. I think that intelligent well-planned growth, it's the only way that we will be able to retain our children here and provide them with good jobs.

**Response:** Comment noted. This comment does not raise a significant environmental issue that requires a response.

**Statement 2SB:** Ken Milton: I have a letter I'd like to present to the Commission in support.

**Response:** Comment noted. This comment does not raise a significant environmental issue that requires a response.

**Statement 2SC:** Gene Mickel: I've been in the real estate business in this area since 1970. We opened an office in Coarsegold, and I know that since that time, there have been water and sewer problems in Fish Camp. I'm going to try to bring up something that I haven't heard anybody else mention. It seems to me that this is an opportune time for the developer here to get together with the property owners in the Fish Camp area and create a community infrastructure system for sewer and water. The existing homeowners could assess themselves some amount of money, the developer's going to put in a system anyway. And not very often, in my experience, do we get the opportunity to have the confluence of two events like that that could do everybody a lot of good. And I would like to commend the developer too. I think his request for an increase in the height is far offset by his willingness to work with the site. From what I've seen, instead of bulldozing that thing flat like a parking lot, he's trying to scatter the structures around on there and make it an attractive looking thing. If I understand it correctly, the zoning already allows him to do something that looks like Folsom Prison, and so I want to express my personal appreciation for them trying to make something that has some eye appeal too.

**Response:** See Response to Comment 22RA.

**Statement 2SD:** Bill Yaley: I'm a local businessman, and I would like to reiterate what Neil Stonum has said, and you also have a copy of a letter that I sent to you. I raised six children in this community, been here for nearly 25 years, they've gone on to college and all left. One of the problems is we can't attract our kids back to these communities because the jobs are so scarce. When we see professional developments proposed in this county, I think we ought to take a hard look at them as a good thing. We need some growth. We're not going to stop growth. We need good professional growth, and it appears that this project, from what I've seen and read about it, I think it would be a very good project for this county.

**Response:** Comment noted. This comment does not raise a significant environmental issue that requires a response.

**Statement 2SE:** Dr. Jan Mennig: I'm the past Executive Director of the Mariposa County Chamber of Commerce. I'm an officer of the Chamber, and I'm a chairman of the Tourist Advisory Council at Mariposa County. I have had an opportunity to examine this subdivision or this project, and I believe it certainly is an asset, and if this Commission rules favorably to allow it to develop further, that it will be a contribution to this county. I further believe that it deals rather well with the topography of the area, and that the potential guests at this facility will enjoy its hospitality. I've met with the personnel dealing with this organization, in particular, Mr. Coleman. I'm impressed with his professionalism, and I believe that this is in the interests of the

County. I want to make my presentation short without any further detail because I certainly indeed agree with Mr. Stonum, who made a previous presentation, that this is a winner.

**Response:** Comment noted. This comment does not raise a significant environmental issue that requires a response.

**Statement 2SF:** Candy O'Donnel-Browne: I'm the Executive Director of both the Chamber of Commerce and the Mariposa Economic Development Corporation, and both of those corporations have submitted a letter, but today I'd like to speak as a voter from Midpines and a citizen of Mariposa County. I've watched this EIR process for several months. I'm impressed with the leadership of both Eric Toll, our Planning Director, and Leroy Radanovich, our Planning Commission Chair. Both have held the participants strictly to this process. In an atmosphere of high tension, everyone has remained dignified. Everyone's rights to participate have been upheld. I know any change to the landscape is upsetting. I've listened to comments on SilverTip both in formal hearings and out in the hallways outside the hearings, and I'm aware there are some people that are opposed to this project; however, it's unrealistic to believe that the meadow in Fish Camp will never be developed. The questions are how will it be developed and who will be responsible. SilverTip Resort Village will be located at the south entrance of Yosemite, approximately one mile from the edge of the park. It's a prime tourist location. SilverTip is designed to hold conferences much like its neighbor, Tenaya Lodge. We know Tenaya remains heavily booked during the off season because it's a conference facility. It's safe to assume that SilverTip will follow suit, providing a year-round income. SilverTip will contribute to the people of Mariposa County by producing an annual payment of over \$700,000 to our general fund. In addition, SilverTip guests will pay sales tax when they purchase items off the property in places like Yosemite Valley. This money will be used for services that enrich the lives of every citizen in Mariposa County.

**Response:** Comment noted. This comment does not raise a significant environmental issue that requires a response.

**Statement 2SG:** Pictures of SilverTip in the Draft EIR show a 45-foot lodge nestled in a depression in the meadow beautifully blended in the Alpine scenery. The building is somewhat dwarfed by the height of the surrounding trees and hills. If the intent behind the height limit and the Fish Camp Specific Plan is to preserve a sense of proportion, it appears to me that issue has been successfully mitigated by the design and placement of the building. Its roof line is lower than those of the buildings within the height limit. Ron Coleman, Executive Vice President of PacificUS, has conducted his activities with utmost professionalism under a great deal of pressure. He pays close attention to the questions and concerns expressed by everyone. I have learned to trust his intentions and his abilities. This property is prime. Lodges have been built here for over a hundred years. Three houses are not highest and best use. There will be a new resort built there some time. If PacificUS doesn't build it, who will?

**Response:** Comment noted. This comment does not raise a significant environmental issue that requires a response.

**Statement 2SH:** Jeffrey Dintzer: I'm an attorney with the law firm of Gibson, Dunn & Crutcher in Los Angeles, and I represent Robert Cooper and John Swenson. My associate, Marnie Hammond, is passing out a booklet of materials that we have collected. These are excerpts, various documents that are already in the public record, but we condensed them down (see Appendix K of this Final EIR). My business address is 333 South Grand Avenue, Los Angeles, California, 90071, and my telephone number, (213) 229-7860. I represent two of the property owners in Fish Camp. An EIR is required for a project of this significance, particularly in an area which is as environmentally sensitive as the one that this project is proposed for. What is in an EIR? An EIR is an informational document which is supposed to provide you with, or disclose to you, all the impacts the project will have, and attempt to mitigate those impacts to a level of insignificance. An environmental impact report should accomplish the following: It should provide a complete description of the project; it should fairly identify all the environmental impacts that the project will have on the environment and the local community; it should reduce all of the potentially significant or significant impacts to a level of insignificance, without deferred mitigation, and I want to underscore this point, without deferred mitigation. That is without putting off to a later date studies of the impacts, or how the impacts will be mitigated. The project proponent must tell you now, must do all the studies and must tell you now how all the impacts this project is going to have on the environment are going to be mitigated. That's what the environmental impact report is designed to do, so that you can make the proper decision.

**Response:** Comment noted. This comment does not raise a specific environmental issue that requires a response.

**Statement 2SI:** The Planning Commission and the County are looking at this project, and they are going to have to balance the impacts that this environmental impact report right here is going to have on the local community and weigh the environment against the benefits of the project, tax benefits, that the project will have, as well as the benefits of growth, which we all recognize is important to the community. It is imperative that in doing this balance analysis, that is weighing the impacts against the benefits, that you, the decision makers, do due diligence and ask hard questions to make sure that the environmental impact report that is before you discloses all the impacts and proposes realistic mitigation measures that will defer those impacts in the future. It is also very important that the County now make sure that the project is going to deliver the benefits that the developer's promising, because if you do not do that analysis now and you approve the project, you can never go back. Because all the impacts that are promised here, and we believe more, will be there, they are not going to go anywhere. But the benefits of the project, if they don't materialize, will not be there, and you will have potentially an eyesore, a project that is not delivering the benefits, but we are stuck with the impacts. It is true that a project developer could come forward and put a project on this site that is compatible with the land use, that does not offer as many significant impacts, and may be development that really delivers serious benefits to the County in place of this. But once we go forward, once we move in this direction, once this decision is made, we can't go back, so it's very important as we move through this process, we ask these questions.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SJ:** This EIR promises 58 impacts that are either significant or potentially significant, and then it addresses those by making proposals in terms of conditional use permits, and other things that the project developer has proposed to do to reduce those impacts to a level of insignificance. However, the EIR concedes that despite its mitigation measures, there are three unavoidable impacts. What are those? Number one, that there will be land use conflicts; the existing zoning and Specific Plan for Fish Camp will have to be materially altered, have a height limit changed, and obviously there's going to be a change in terms of density, how many people are going to come to this site. Number two, we're going to lose some open space. And number three, we're going to have wildlife mortality.

**Response:** The comment correctly reflects the conclusions of the Draft EIR with regard to significant unavoidable impacts. However, the Draft EIR also identifies inconsistency with the Specific Plan height requirements as a significant unavoidable impact.

**Statement 2SK:** There are six instances in this environmental impact report, according to this document we have before us, of deferred mitigation, that we believe violates CEQA. We believe these are instances where the project proponent is coming to you and saying there will be impacts, but we'll deal with them later on. We'll either study them or we'll get a permit from some responsible agency, or we'll do something in the future, after you've approved the project, to try to mitigate these impacts. We have nothing here before us tangible that identifies exactly how they are going to do that. There are important questions the County should ask. If you look at Tab Number 1, look at page SS-7, second item down, these are all instances of deferred mitigation. These are all things they are talking about doing later on after the project is approved, and we believe are material, that the County should address now. The first one is impacts of construction on the two acres of mapped jurisdictional wetlands. That's deferred mitigation, because they are talking about acquiring permits after the project is approved. 3.2-4, exactly.

**Response:** See Response to Comment 70DD.

**Statement 2SL:** The next one is 3.27, production of water quality from project related erosion to Big Creek. Again, we're talking about getting approvals and permits from the Regional Water Quality Control Board, which is on record as having said that this EIR is deficient. That's among the materials before you. But let me move on to the next item, Page S-16, 3.4-9. This involves the discharge of waste according to waste discharge requirements. And I'll explain when we talk about water quality why this particular deferred mitigation is really problematic. The next one down is the antidegradation analysis. This is where the Water Board's actually told the project developer that they have to come forward with a final antidegradation plan, and the EIR is deficient without it, and this is an instance of deferred mitigation. And this is a responsible agency, this is the State of California that's telling them. 3.4-10, which is on S-20, they want to do a flood flow study, but they've deferred that study. We don't know whether there will be a potentially significant impact or not. A lot of these mitigation measures, as I've noted, involve water quality. And when I'm finished, I hope that you will take a brief time to listen to the hydrogeologist that we've retained and asked to come speak to you about the nature of this site in terms of hydrogeology, because it is extremely important. This is a very, very dynamic site.

**Response:** See Response to Comment 70DD.

**Statement 2SM:** The County should be asking some really hard questions of the project developer. Why doesn't PacificUS come in and design this project in a manner that is consistent with the existing land use and character of the area, such that it does not materially conflict with the Specific Plan and zoning, and so that it does not cause serious wildlife mortality? For each significant and potentially significant impact, has PacificUS actually done enough to reduce the impacts to a level of insignificance? For example, could they have proposed this site, proposed this project in a way that would not violate the height requirements of the Specific Plan and the zoning? Could they create wildlife corridors at the site to eliminate or reduce wildlife destruction? These are the kinds of questions that the County should be looking at very carefully.

**Response:** Comment noted. The County cannot respond to these questions on behalf of the project applicant.

**Statement 2SN:** Why is there deferred mitigation when studies, such as an antidegradation analysis, or negotiations with the Water Board, can be undertaken now, before the project is approved, so that we know that real mitigation will be in place, and that the mitigation that the project proponent is promising will actually be delivered upon? So many times projects go through and promises are made, and at the end of the day, the project is nothing like what has been the subject of community discussion. Because of the sensitivity of this project, and because of the concern of the community, which is an important issue in CEQA, the case law talks about community concerns, we need to make sure that these issues of deferred mitigation are resolved now, not later.

**Response:** See Response to Comment 70DD.

**Statement 2SO:** Now I want to talk about some specific issues. There are a whole host of problems with the Environmental Impact Report, and we are going to submit written comments with respect to those, but I want to hit on the highlights of the big ones we think are prominent. Number one, inconsistency with the land use. This project will unquestionably change the character of Fish Camp. This project, unlike Tenaya, will be visible from the roadside. It's going to be sitting right on top of this wetland meadow area that is right adjacent to the highway, set back from where the old Silvertip motel existed. It is not going to be as hidden away as Tenaya is, behind a bermed area. The project, as the project proponent has conceded, is inconsistent with the current land use controls, including the zoning and with Fish Camp's Specific Plan, and if you look at Tab 13 of the booklet I've provided, Page 19 of the Specific Plan, Section 6(a)3(e) and Tab 14, we've got the excerpts of the zoning section 17.108.140. The project proposes to change the Specific Plan designation of the total site from 9 acres of resort commercial and 38 acres of single family residence, one acre minimum, to 36 acres of resort commercial, 8 acres of single family residential, one acre minimum, and 2.5 acre residential which we understand would be occupied by the titled owner of the property. This means that if we went with the Specific Plan as it is now, a substantially smaller number of people will be going to this property. So the project proponent has to change the density, in other words, how many people are actually going to go to this site, and has asked you to do that with the amendment to the Specific Plan.

Now interestingly, the Environmental Impact Report fails to address an important part of Fish Camp's Specific Plan, which deals with Specific Plan Amendments. If you look at Tab 24, and again, we're talking about the Specific Plan for the Town of Fish Camp, you'll see pages 41 and 42 of the Specific Plan, and focus on 41, we're talking about Plan amendment standards. So if you are going to amend the Specific Plan as they want you to do here, we need to look at the criteria which allow those amendments. If you look at Number 2, it says certain specific findings must be made. I want to focus on the first paragraph of Number 2. It says the following findings must -- not may -- must, be made, regarding any amendment to this Plan, and then we have A through G. These are the findings that the County must make before these amendments may be undertaken. Where is that in here? This isn't discussed. Let's look at sub (F) for a second. Sub (F) says the amendment they are proposing will not result in damage or have an adverse effect on the value of adjacent properties. I've read a lot of documents in connection with this case, in connection with this site, and I have not seen any analysis at all by the project proponent which addresses this issue, so how could possibly the County make a finding that this resort is not going to adversely affect the adjacent property owners? Common sense says it will. I don't know, I don't have an analysis. There is a way to do this, but no one has done it. So the County cannot make this finding, but it must, according to the Specific Plan.

**Response:** Comment noted. See Response to Comment 70NN.

**Statement 2SP:** Let's take a look at sub (B). All environmental impacts of the amendment can satisfactorily be mitigated. All of the impacts must be mitigated. According to their Draft Environmental Impact Report, the increased use of the site, the fact that we're going to have more people driving in and out of the area, is going to cause wildlife mortality, and that cannot be mitigated. No mitigation measure is promised with respect to wildlife mortality. They ask you to accept it as significant. That increased traffic will result directly from the amendment of the Specific Plan as more people will be coming to the site, therefore, it is absolutely impossible to simultaneously amend the Specific Plan as is proposed, and make a finding, as it must, that all environmental impacts will be mitigated in this case.

**Response:** See Responses to Comments 70NN and 51A. However, even with the additional mitigation measure, wildlife mortality remains a significant unavoidable impact.

**Statement 2SQ:** Let's talk about water quality. The wastewater facility that they propose to put forward with respect to the project, that would serve the three elements of the project, the cabins, the resort, and the commercial aspects of the project, is designed to transfer essentially the treated wastewater across the area of the site and into large leachfields on the western portion of the facility. There's no disagreement that this area contains wetlands, and that those wetlands drain into Big Creek, which runs right down in here. So the water flows north of this direction, and takes that water flow out. Big Creek, and the wetlands area that they are proposing to put this project on, are "navigable waters of the United States under the Clean Water Act." There can be no dispute about that. The Environmental Impact Report fails to address the fact that the Regional Water Quality Control Board, which is the State agency responsible for making sure that our waters, our ground waters, our surface waters are protected, fails to account for the fact that the Regional Board is going to require them to issue a National Pollutant Discharge Elimination System permit. That is a permit that is required in the Clean Water Act, and in

failing to analyze the fact that the Water Board is going to require that NPDES permit, they then ignore the fact that their treatment facility is going to have to clean the waste water up to a level that is consistent with other NPDES permits that the Water Board has issued recently. It might be of interest to the County to take a look at one of those. We have attached as Tab Number 3 to the packet of materials the recent NPDES permit that was issued by the Water Board, I think the date is July of 2001, for El Portal. This document has many conditions, and requires that the water be treated in a manner that will protect the beneficial uses of the waters of the State of California, as required. This is for tertiary discharge into the Merced River. They are going to require them to get an NPDES permit, and if they are going to require them to get an NPDES permit, there is no reason for leachfields. The point of discharge is Big Creek. You may use leachfields to mask your discharge, but in this case, the discharge to the leachfields is hydrologically connected to Big Creek, so the point is is that if you have to get an NPDES permit, if you have to clean the water up that clean, the Water Board is going to make them have that permit. Under those circumstances, we're not going to need leachfields. Point of discharge will be right to the creek, which will make sampling, to make sure they are in compliance with that permit very easy. Point of discharge is very important to the Water Board, because they want to make sure they can get access to the point of discharge so they can make sure the permits are being complied with. You bury it under a leachfield, it's very difficult to assess whether or not the discharge is, in fact, in compliance with the permit. I do not have any correspondence in the materials submitted to date that the Regional Water Quality Control Board is going to require an NPDES permit, however as part of this Environmental Impact Report process, the Water Board has become active and they have commented so far. Comment period is not over. Our discussions with Water Board staff have revealed that they believe that an NPDES permit is required for this site, and the current system that exists now will not meet those requirements. That's our belief. The system that they've got, they are going to have to make some modifications to it. It's not that far off. They are going to make some modifications, however, and the point of discharge has to be Big Creek, and then we can eliminate the leachfields, we can know exactly what's going into Big Creek. I'm not saying they can't do it. I'm just saying they have to tell you how they are going to do it. The antidegradation study, they put this off, and if you look at Tabs 5 and 6, there are Water Board letters. An antidegradation study basically analyzes what the impacts of the project will be, based on the entire use of the facility, on water quality, generally. The Water Board is interested in Big Creek, and they are interested in ground water. They want to see that you have an engineer, and that there's a plan, and the Water Board has said that the report is incomplete. I'm looking now at Tab 5, Paragraph 4, first sentence there.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity. Also see Response to Comment 70UU.

**Statement 2SR:** Let's talk about something that's a practical concern. These portable wastewater treatment facilities, they are not large publicly owned systems. The type that the project proponent is proposing for this site are temperamental and they are expensive to maintain. Just talk to the folks of Tenaya over the years about the problems that they've had with their wastewater treatment facility. One of the hard questions that the County should be asking about is who is going to pay for that operation and maintenance over time, and what assurances do we have that it's going to be done? We have PacificUS here today, but is PacificUS going to be here tomorrow? Are they going to sell this project? Who are they going to sell it to? Is it going to be

someone who is financially responsible, or is the County going to be left with this responsibility over time? Certainly that wasn't anything that was promised in this report, so I would urge the County to make sure there is financial responsibility with respect to ongoing operation and maintenance, and that that's promised as part of this project because that's good fiscal government. That would include both the sewage and the water systems.

**Response:** See Responses to Comments 54M and 54L.

**Statement 2SS:** The wetlands area is another area of significant concern. In 1988, a wetlands delineation of the area was conducted. I do not have a copy of that document yet, but we know it exists because there was a letter issued by the California Fish and Game Department that makes reference to it. 5.67 acres of wetlands? We believe that the former title owner or holder of this property, Mr. Robert Keller, dug trenches into the meadow that has caused increased drainage of the wetlands area into Big Creek and has diminished the size of the wetlands at the site. I have aerial photographs, and I want to show you a basic area. This is an aerial photo from 1970, and the area we want to concentrate on is the old Silvertip Lodge, and the meadow behind it, and you know it's the meadow because there's no trees there, trees can't take root, because it's a wetland. We then look at photographs from 1976, and then again in 1992, and what these photographs will show, there are lines. If you walk the site, you have to look for them, but there are lines in the meadow, and they are not squiggly lines, they are straight lines, and these are man-made trenches, and those trenches have acted to take water that would normally sit in a natural wetlands and drain it into Big Creek. We also believe that PacificUS has disturbed the meadow. The Federal Clean Water Act does not permit such disturbance in the absence of a permit from the Army Corps of Engineers to the extent you are going to have any effect on wetlands larger than one acre. This is larger than one acre. The citations for that authority are found at Tab 8 in the booklet I've submitted. We checked with the Army Corps of Engineers, wanted to see if Mr. Keller had permits. There are no permits per the Army Corps. Under the Clean Water Act, there is a continuing violation of Section 1344, because no permits have been issued with respect to the dredging that took place. The EIR completely fails to address this issue. These wetlands must be restored to their prior condition, and then permits would have to be obtained from the Army Corps. They would have to come to you and say we're going to we're going to destroy wetlands. They have to tell you that you are going to have a significant impact, and they have not done that in this Environmental Impact Report. They have totally skirted the issue. We understand that there has been tractor, some work has been done along the roadside that goes around the meadow, and there's been tractor movement through that area. We believe PacificUS has undertaken activities that, if you look at the regulations, are not permitted in the absence of the permit. We believe both Mr. Keller and PacificUS have done so. All of which are in violation of the Clean Water Act, and are enforceable violations. But from your perspective, you are not here to assess violations of the Clean Water Act. Your job is to see whether this document is complete, and whether it's informed. It can't be because they aren't really telling you what the impact to the wetlands is because the wetlands have to be restored first.

Without the benefit of the photographs, the wetlands area that has been delineated, I don't have the 7-acre delineation, I'm trying to get it, it wasn't with the files of Army Corps of Engineers, it should have been, but we are looking for it and hopefully will have it to put into the record, but it's clear this document exists since Fish and Game had it, and they make reference to it in

correspondence. No one has brought to my attention any activities that have been undertaken, specifically, that would constitute a violation either technical or material. We looked at Subdivision D, which is on the other side of the meadow, and there's more development on the west side, but because of the way the water moves away from these areas and towards the meadow, and then drains into Big Creek, there's no reason to think those specific developments have had an impact on the wetlands themselves. What appears to be the case, from just the visual evidence we have, is that there's been trenching, and that would carry both recharge to the area, as well as carry the water away. You are not here to make that determination. You are only here to make a decision on whether this document is complete.

**Response:** See Responses to Comments 5.1B, 38A, 52Z and 70B.

**Statement 2ST:** Let's talk about one last aspect of The Environmental Impact Report. Outdoor noise. The Environmental Impact Report fails to conduct any analysis of noise impacts from the project's outdoor activities, obviously of concern to the local residents. You know the site, so you know that sound moves very easily around, it's very tranquil, and so the local residents are very concerned about outdoor noise activities. At Tab 12, in the Draft Environmental Impact Report, we are told by the project proponent the following in the third paragraph on page 3-144, "The magnitude of noise impacts associated with outdoor activities depends upon the orientation, design, volume and number of participants, none of which is known at this time." We have nothing. If you have amplified music or you have big parties outside, that noise is going to carry. We need to know now what the impacts are going to be, and there should be restrictions placed now on the project, not later. That's deferred mitigation, and it's not appropriate. We will be submitting some very specific comments about a wide range of other issues in the impact report.

**Response:** See Responses to Comments 70M and 70DD.

**Statement 2SU:** Let's talk for a moment about the promise of benefits of this project, because that's real important in making a decision. I heard some of the business folks coming up here earlier today, and they like the idea of having both more jobs that are promised by the project, they like the taxes that's promised by the project. Someone mentioned the fact that there's flight of youth here, and these types of projects perhaps maybe will abate them. The project promises \$765,000 per year in taxes, and 70 percent year round occupancy. It promises an average daily rate of the hotel at \$125, and it promises average daily rate of the cabins of \$250. These estimates are unsupported by any hard data about the hotel market in Mariposa County. Tab 15, Pages 2-1 and 3-5, this is the fiscal effect of SilverTip Resort, October, 2000. They have not done and presented to the County hard data analysis, like a banker would want, or someone who was going to put some capital up. They've not done an analysis to show you that these benefits are actually going to happen. Yosemite National Park visitation has decreased over the last few years. We are going to have effects from recent events, I don't know what that means in terms of the hospitality community. The immediate effects have been more dramatic. I don't know if there will be long-term effects, but that's something that should be looked at. You don't have to approve this project. If this project promised no benefits at all, no taxes, wouldn't create a job, all it was going to do is wreak havoc on the environment, you'd probably would say forget it. This is a decision for the County to make. It's not a CEQA issue per se. It's an issue for the County because what you've got to do is balance the benefits side against this, is it worth it, or is

there some other project maybe that might be better for this site? We are not opposed to development on the site. We are trying to make sure that it's the right development built on the site, one that has long lasting benefits to the County, one that is in character with the community, and one that fits nicely in Fish Camp. We recognize that developing this property is inevitable and that it is beneficial to the community. The analysis that has been done fails also to account for the ramp-up that will occur in a new hotel. It takes a while for a new hotel to get footed. The project proponent needs to develop and produce to the County a realistic financial analysis that is backed up by hard data, because this is what you loan into right here, all these impacts, forever, and you want to make sure you get your return, so let's make sure this project proponent is going to deliver, and we have surveys and all the other things that need to be done in order to make sure we are going to get \$765,000 in taxes, that we are going to actually get jobs in Mariposa as opposed to Oakhurst. Where are these jobs going to go? Fish Camp? I don't know if Fish Camp is going to be the basis of the employment that they are talking about here. That needs to be analyzed before a decision is made.

**Response:** As stated in the comment, the comment does not raise a significant environmental issue that requires a response.

**Statement 2SV:** Another question that needs to be addressed is whether or not this is a phased development. Is the project proponent actually going to start construction and build the whole thing, or are they going to build one part, and then another part, and then another part? There might be reasons why that would be done. It may be that there's insufficient capital available to construct this entire project at this point. It may be that they need to build a commercial center and the infrastructure, and then have to sell that, or have to lease it, or some other mechanism to secure it, before they can move forward with other portions of the project, and that should be of concern to the County. If they are going to build this in a phased setting, what if they don't actually have capital to build this whole thing right away, and they build the commercial center, and for whatever reason, it fails, what do you get? You get a wastewater treatment facility, you get leachfields, and you get a commercial center, and that's it. So you are taking a risk. You were promised a project. You are giving away a whole bunch of things here. This beautiful design and lovely photographs we have in the back, that's all that was promised. Can they really deliver it? If you've got a whole lot of capital and you can go build the project right away, then it's not a risk because you know the project is going to get built. Do they have the financial resources to do it without any contingencies that are remote, or that are ephemeral? Sometimes phasing works really well. Sometimes phasing works really badly. Let me give you an example: You have a small commercial facility, they have problems with it, they can't get it leased, they can't sell it, and they have to have those funds for phase two. Who's going to pay for the wastewater treatment facility?

**Response:** See Revised Draft EIR, Section 2.2, for a supplemental discussion of the phasing plan. Also see Responses to Comments 12E, 54M, 54Q and 70YY.

**Statement 2SW:** Let me bring up another issue. Property values. They are important from PacificUS' perspective and from the perspective of the local residents. Development is not a good thing if it's not in a thoughtful manner, and a way that's consistent with good planning. PacificUS has bought this property, and we are not told exactly what their legal interest is. We

know that they are the title holder of the property. But do they own this property, or are there contingencies that exist with respect to their ownership of this property? I have addressed the Environmental Impact Report, and I'm turning my discussion now to the other side of the balancing. I'm not going to refer to the EIR anymore, except in my written comments. I'm just talking about other hard questions that decision makers ought to be asking about development. You have to consider about property rights, the fact that when they bought this property, the zone and Specific Plan existed in one manner, and if you grant them what they are asking for here, you are essentially going to give them an enormous windfall because they are going to change the value of this property significantly, so when we talk about property rights, let's remember, we have other property owners in the area who have purchased their property with the idea that there are single family residences here, and that there would be single family residences here, and now we're going to change the character of all that to the windfall of the project proponent.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SX:** We've done a public records search, and we found that the president of PacificUS is Guintini, who is an officer or has business with, he's associated with approximately 42 companies, two of which are bankrupt, and 28 of which are inactive companies in California. That information in the backup is at Tab 18. The project proponent ought to tell you what their plans are with respect to operating this facility. If they are going to sell it, they ought to tell you that. If they have a suitor, they ought to tell you who it is. If they don't know, they should say that too. That's information that should be disclosed to you.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SY:** We received a letter, it's at Tab 21, authored by Mr. Coleman, addressed to the Yosemite Alpine Village Association and Yosemite Alpine Community Service District. There are water features in the meadow, and PacificUS has made an effort to acquire those water features as part of this development, and this letter was a proposal to acquire those assets. The concern I had when I looked at this letter, with respect to the project proponent, was actually paragraph 1, had to deal with the notion there would be confidentiality with respect to this. Why are there secret agreements that need to be made with the local water agency? Why wouldn't this be part of the public record? Why would PacificUS think it would be appropriate to have secret agreements like this, and what other secret agreements exist? There's nothing wrong with confidential agreements, but there's usually a reason why they want to have confidentiality. Under these circumstances, when you are dealing with public water agencies, why? Public agencies don't enter into confidential agreements. This County doesn't have any confidential agreements because the agreements that it has are largely a matter of public record. The letter seeks not only the acquisition of these assets, but also their support for the project. If there are agreements out there, if there are discussions going on, business being undertaken with respect to this project, material to the project, that is "confidential" with quasi-public bodies, this County should know.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SZ:** I want to close by offering the following. We are not opposed to development of this area. There is an appropriate project for this site. We don't believe you are looking at it. Several things should be undertaken before the County proceeds. Number one, the County should obtain an indemnification from the project proponent as a condition of approval that the project proponent will indemnify and hold harmless the County for any litigation that ensues as a result of this approval. It's commonly done, and it is appropriate under these circumstances, particularly in a highly charged project as this one is. Finally, in weighing the ephemeral benefits of this project against the disclosed and undisclosed impacts of this project, the County through the Planning Commission and the Board of Supervisors, should proceed with great caution and make sure that all the right questions and appropriate diligence is undertaken before you proceed.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SAA:** Tim Durbin: I'm a consulting hydrologist, and my offices are in Sacramento. I wanted to add from a hydrologics perspective to the comments Mr. Dintzer made, my comments are all related to water, and they are focused on two things: one with regard to the wetlands issue, and the other with respect to the wastewater disposal issue. With respect to the wetlands, one of the characteristics of this site is that ground water occurs beneath the site, and in those areas where the ground water table is close to the land surface, perennial wetlands are produced. There have been changes to the land use out there, and to the land surface that have changed the groundwater hydrology, and those changes in particular are related to the source of the groundwater. The groundwater ultimately comes from either rainfall or snow melt that occurs on the hillsides surrounding the meadow, and on the meadow, and also the surface water run off that comes onto the meadow. The changes that have been made to the land surface out there have resulted in less water coming onto the meadow and percolating into the groundwater, and the results is a lower groundwater table, and a smaller geographic area of meadow, and these effects have been continuing, and they have changed what previously would have been a higher groundwater table and a larger meadow area. The project needs to be evaluated, not from the perspective of the two acres or so of wetlands that are there now, but the acreage that would have been there had not these changes been made. The EIR needs to address these issues to identify what the impacts of changes in the hydrologic system have had on the acreage of meadows, and the project evaluated with respect to those changes and what the conditions would have been in the absence of those changes.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity, and Responses to Comments 5.1B, 21RA and 21RC.

**Statement 2SBB:** The other point that I wanted to emphasize has to do with the wastewater. The plans for the project are to dispose of the wastewater in leachfields. The groundwater system out there is such that the direction of groundwater flow generally follows the topographic land surface, so it flows from the meadows over into Big Creek and discharges into Big Creek. If you

add wastewater to the groundwater system beneath the meadows, that wastewater eventually will end up in Big Creek, so that the real point of discharge with respect to the water is Big Creek. With respect to these kinds of issues, other Regional Boards have recognized that groundwater discharge ultimately ends up someplace, and quite often have required that discharge standards be met that would satisfy the conditions for a direct discharge, even though they might still be discharging to the groundwater system, they have to meet these stricter standards. My recent experience with these issues were up on the Russian River.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity, and Response to Comment 21RA.

**Statement 2SCC:** I want to comment again with respect to the meadows. There is some possibility that the groundwater pumping for the water supply for the project will have some impact on groundwater conditions in the meadows, and have correspondingly an adverse impact on the wetlands in the meadows, either the wetlands that exist now, or the wetlands that should exist had modifications to the land not have been made, and the EIR does not address this. It's all of these water issues, or issues that need to be addressed quantitatively in the EIR, so that a thorough understanding of the project impacts is explained and developed within the EIR. Those kinds of things are completely missing from the document. The things that have the most direct impact are the things that divert water away from the meadow area. Under completely undisturbed conditions, there would be fairly diffuse runoff coming off of the hill slopes and onto the meadow. The impacts from channelization would be fairly immediate. There would be impacts that might follow in just the next year, and so they are quick and follow fairly immediately.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity, and Responses to Comments 5.1B and 21RC.

**Statement 2SDD:** What has occurred is either to reduce the amount of water that comes from surface water that gets spread out on the meadow by changing the diffuse sources and channeling them into limited channels, or the runoff and percolation that might have occurred on the meadow itself. The basic soils conditions that were there before are still there, and presumably, if the natural groundwater regime that supported the larger meadow area was restored, those meadows would come back. Those changes are not the result of something that occurred a hundred years ago, it's something that happened recently. There are seasonal year to year variations in rainfall but these kinds of changes don't occur from just that effect. Drawing from other wells has a potential effect, and that is an effect that needs to be addressed quantitatively in the EIR. With regard to the leachfields, just from a ground water level perspective, it will tend to have a positive and off-setting effect, because that's water that's put into the groundwater system, so the real impact on the meadows will be the net effect of groundwater pumping, and the water inputs from the sewage disposal system. The groundwater beneath the leachfield is relatively shallow, so there's a short time frame of perhaps even just weeks from the leachfield lines down to the groundwater table. The travel times of the water molecules from the leachfield to the stream tend to be in the order of one foot per day. It depends on a number of factors. One way to monitor it would be to install wells. The important point is that with respect to the system, that and the NPDES permit that probably is going to be required, that their discharge to the

groundwater will have to be the same as if it were directly to the stream. The recharge, the leachfield will put water back into the groundwater system, and that will cause groundwater levels to be higher than they otherwise would be in the vicinity of the leachfield, and from that perspective, they are a potential or actual benefit to the wetlands. My only introduction to the site is through a number of photographs that I have of the property. I haven't actually been out there. If conditions are imposed as they have been imposed in other areas of California, water reaching Big Creek from the leachfield or being directly discharged essentially is going to be of the same character. I've seen maps plotting the location of wells. It depends on whether we're dealing with deep wells or shallow wells, and many of the existing wells out there are relatively shallow, a few hundred feet in depth. For the wells, a well that might be very near the leachfield, there might be some benefit, but the rise in groundwater levels that will occur because of the leachfield will be limited to a fairly small area, so it will probably be neutral with respect to most of the wells in the Fish Camp area.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity, and Responses to Comments 21RA, 21RB, and 21RC.

**Statement 2SEE:** Barry Hilton: I work with Regional Water Quality Control Board in Fresno, and my supervisor asked me to make this presentation, and I've given each of you a copy of this letter, would want to add this into the public record. This letter (Letter 5.1) supplements Regional Water Quality Control Board Central Valley Region, Regional Water Board staff, 10 August 2001 comments on the County's Draft EIR (Letter 5), on the SilverTip Resort Village. The EIR indicates that the project site has "been changed from its original condition over the last 40 to 50 years, including changes to the hydrology of the meadow." Water flowing through channels draining Big Meadow under dry conditions originates as groundwater and has the effect of dewatering Big Meadow. Channels draining Big Meadow discharge directly to Big Creek, a water of the State and of the United States. Jo Anne Kipps examined the channels on recent visits to the project site. I've also been to the site numerous times myself. They appear to be constructed or modified natural drainage channels. One appeared to be over four feet wide and four feet deep, while others were about one foot wide and one foot deep. We understand that complaints have been made to the California Department of Fish and Game alleging that dredging and stream alteration activities in the project site released sediments to Big Creek in a manner that impaired its beneficial uses, particularly for cold water fishery and wildlife habitat. Dredging in a manner that results in temporary or permanent fill or removal of material from any wetland area requires preparation of the delineation of the waters of the U.S., including wetlands. The identification of impacts to U.S. waters requires Clean Water Act, Section 401 water quality certification that the project will not violate State water quality standards, concurrently with CWA Section 404 requirements administered by the Corps of Engineers. Water quality standards include beneficial uses of water, water quality objectives in the State Water Resources Control Board's Resolution 68-16, antidegradation policy.

California Water Code Section 13260 requires that any person discharging or proposing to discharge waste which includes dredged or fill material, that could affect the quality of the waters of the State, including waters of the U.S., shall file a report of the discharge in compliance with California Water Code Section 13260, and must obtain Waste Discharge Requirements under California Water Quality Code Section 13263, or a waiver prior to discharge. Issuance of

Waste Discharge Requirements under Section 13263 by the Regional Water Board or a dredge or fill permit by the Corps of Engineers requires compliance with CEQA and NEPA. Regional Water Board files do not contain any report of waste discharge for dredging activities in Big Meadow, or any applications for 401 Certification. Thus, the dredging activities appear to be in violation of CWC Section 13260, and of CWA Sections 401, and 404, Clean Water Act.

**Response:** See Responses to Comments 5.1B, 38A, 38B and 70B.

**Statement 2SFF:** Dredging of channels draining Big Meadow has lowered the groundwater table beneath Big Meadow. Were it not for the lowered water table, it is likely that the site would be considered as an untenable building location. Sediment collecting in these channels will likely require periodic removal to maintain groundwater at or below current levels, judging from past activities. It's our understanding that the dredging has continued periodically over the years, that this is not something that was just from action due to the building of that logging road back around in 1950, so this is a continuing activity. If the project is constructed as proposed, it is likely that the channels will require periodic dredging to maintain their dewatering function. The Draft EIR does not address this likely periodic need for dredging, assess the environmental impacts from this dredging, or offer mitigation measures to render the impacts to less-than-significant levels. When such dredging becomes necessary, we recommend the County require the project proponent to comply with the requirements of Clean Water Act Sections 401 and 404, California Water Code Section 13260, CEQA and NEPA. In addition, we recommend the County require the project proponents to implement the following mitigation measures: First, assure that the discharge from the existing constructed channels drained at Big Meadow not cause in Big Creek suspended material in concentrations that cause nuisance or adversely affect beneficial uses. Noncompliance with this requirement will be determined when this discharge causes turbidity in Big Creek to increase more than 1 nephelometric turbidity unit (NTU) when background turbidity is between 0 and 5 NTU; 20 percent when background turbidity is between 5 and 50 NTU; 10 NTU when background turbidity is between 50 and 100 NTU; 10 percent when background turbidity is greater than 100 NTU. These are direct quotes out of the Basin Plan.

**Response:** See Responses to Comments 5.1B, 38B, and 38C. Also see Revised Draft EIR, Section 3.4, Water Quality and Quantity.

**Statement 2SGG:** It would be the responsibility of the owner of the project, the author of the project, to monitor turbidity in the constructed channels prior to their discharge to Big Creek, and Big Creek upstream and downstream from the channels' discharge to Big Creek, at least twice during significant rainfall events, and at least weekly from November through June, and at least monthly from July through October, and submit the results of turbidity monitoring to the Regional Water Board in accordance with the monitoring and reporting program issued by the Regional Water Board's Executive Officer. Retain a California registered civil engineer or geologist to (a) assess at least once yearly in October the extent to which sediments have accumulated in the channels draining Big Meadow, and the sidewall integrity of those channels; (b) evaluate the potential for the channels to discharge accumulated sediments to Big Creek, high flow; (c) certify threat to water quality discharges, or, if this implementation schedule shows that sediment discharges from channels do not pose a water quality threat; and (d) submit the results

of the assessment to the Regional Water Board within 60 days following their completion in accordance with the monitoring and reporting program issued by the Regional Water Board's Executive Officer. Submit a work plan and implementation schedule for the Regional Water Board Executive Officer's consideration for correcting measures, should the discharge from constructed channels draining Big Meadow exceed stipulated standards

**Response:** Revised Draft EIR, Section 3.4, Water Quality and Quantity, and Response to Comment 38C.

**Statement 2SHH:** The only thing we have discussed or looked at at this point is the leachfields. A direct discharge takes other considerations. Our objection to the project has been that we have requested a thorough antidegradation analysis, which we have not seen at this point. We issue Waste Discharge Requirements that requires a monitoring and reporting program. The discharge requirements are very specific, and we monitor that.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity, and Response to Comment 5.1A.

**Statement 2SII:** There are a number of ways of establishing the area of the wetlands. Part of it has to do with the amount of water. The biological survey's looked at, and those kinds of aspects. I'm going to qualify my statement with, to my understanding, the definition of wetlands has nothing to do with who owns the property. It's strictly a matter of how it's defined, and it doesn't matter whether it's federal, state, private or such. Wetlands definitions are such that the land owner does not enter into the equation. It has to meet certain criteria, and is kind of like solving a mathematical equation, that there are certain inputs to that. The Regional Board's responsibility is protection of water quality and water quality standards, and we have to make sure that wetlands are not impacted and if they are, we have to make a comment on it, as a responsible agency. The antidegradation analysis that we have received at this point is inadequate for our purposes.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity, and Response to Comment 5.1A.

**Statement 2SJJ:** Lloyd Carter: I'm a professor of water law at San Joaquin College of Law. I'm also the president of California Save Our Streams Council, a nonprofit organization dedicated to protecting the creeks and streams of the Sierra, and state wide, and we've been around for 20 years. I want to address some remarks to the water situation, and four million gallons of sewage that are going to be working its way toward Big Creek. The Regional Water Board wrote the developers almost two years ago, November 1999, that the antidegradation analysis was incomplete. So they've had almost two years, and we still don't have a plan which meets the Regional Board's criteria. As a matter of general principle, Save Our Streams opposes the use of creeks as sewer lines. The damage that is done to these creeks is undeniable statewide. One of the things I want to address is the premise, because there's reference to treated waters going into the creek. I hope no one here is under the assumption that treated means absolutely safe, because nobody in the room would want to drink this treated effluent. The reality is the fish in the creek don't want to see it either. So the concern here is that treated water is not always "treated." We

have humans involved, there are frequently filters that fail, treatment methodologies fail, flood events occur, septic and sewage systems get overwhelmed. Over at Bass Lake they've had considerable problems with their sewage disposal into Bass Lake, storm events, recurring anecdotal evidence about people getting infections from swimming in Bass Lake, because sewage goes into the lake. It's an extremely serious issue, and you need to pay attention to that very carefully.

**Response:** See Revised Draft EIR, Section 3.4, Water Quality and Quantity, and Responses to Comments 5.1A and 1SK.

**Statement 2SKK:** I also want to mention some cutting edge research that's going on in Europe involving pharmaceuticals. Medicines and stuff in treated sewage water, wherever you have an elderly population, you might have a lot of seniors staying in a hotel who take medications. Most medications pass through the body, then go into the treated water, and pharmaceuticals can have negative impacts not only on the fish and wildlife within a river, but on other humans that are swimming or drinking the water downstream. There's plenty of literature now, and I suggest you direct the Planning staff to look into the issue of pharmaceuticals in wastewater.

**Response:** Cutting edge research is in fact ongoing for pharmaceuticals, hormones, and other organic wastewater contaminants (OWC's) and their impact to receiving waters. Release of a United States Geological Survey report (*Environmental Science & Technology*, Volume 36, No. 6, 2002) last year generated national attention to this issue. The wastewater system design engineer has discussed this topic at length with Dr. Robert Green, Ph.D., agronomist and turfgrass specialist, University of California Riverside. While the data does not yet exist on this topic, Dr. Green believes that slow-rate application of wastewater to land (such as the leachfield and irrigation for the project) offers soil treatment of effluent that maximizes microbial degradation potential of OWC's that is not available when effluent is directly discharged to a surface water body. Given the information available, the proposal for tertiary treatment, microfiltration, ultraviolet disinfection, and slow-rate land application would be the current state-of-the-art in maximizing OWC degradation prior to ultimate discharge to either groundwater or surface water. RWQCB and the State Department of Health Services should treat the proposed system as best practicable treatment and control (BPTC) with respect to OWC's.

**Statement 2SLL:** One of the ways that treated water is prevented from entering creeks are interceptor lines. Anybody who wants to build a project, to make sure their tainted water stays on site, need merely install interceptor lines below the ground. It costs them some money, but it keeps effluent from reaching creeks, so the Board may ask the developer whether they've considered that, because that is one way to halt this water from reaching the receiving waters of a creek. Our position is unalterably that we don't want to see any effluent, whether you want to characterize it as treated or not, entering the creek. Even treated effluent, obviously if it's not potable, nobody wants to be on the receiving end of even tertiary treated effluent, it's still got a lot of things, so we would oppose any process which would permit this tainted groundwater to seep into the creek. The objective of the Clean Water Act is to restore the biological integrity of our streams and rivers in America. If we continue to use them for sewers, we're not accomplishing the goals of the Clean Water Act. With an interceptor line, you can retreat it, or I understand some of the proposal is to use some of the treated water for your lawns and your

gardening. It's the responsibility for any proponent of a project to show that their used water is safe for wherever it's going. Things can go wrong with treatment methods. Better have a back-up plan in that case. The Regional Board was mentioning that we have to wait until we see undeniable damage to the creek before we can step in and take regulatory action. There's a preemptive method, which is don't let potentially dangerous water get in the creek in the first place.

**Response:** See Response to Comment 1SK. Any interceptor line would be simply a conveyance vehicle to transport the wastewater flow from one location to another. The water quality issues would be identical with the exception that site-specific factors related to land application or discharge may vary. The proposed project maximizes the beneficial reuse of effluent for irrigation and toilet flushing which is consistent with the goals of the federal Clean Water Act and California Regional Board policies.

**Statement 2SMM:** Bill Winterberg: Everybody that has talked today hasn't lived in Fish Camp. Having been a neighbor to this property for over 30 years, and to hear the accusations that were lodged or insinuated against the developers, it pains me. The water supply in California is very uncertain, very flexible, and what might have been a swamp 30 years ago, doesn't mean it's going to be a swamp today. I know for a fact that nobody has been doing anything in that meadow as long as I can remember. The fact that it's dried out, that's just life, we're short of water. I want to put my support to this project. It will be beneficial to the community. They have offered that we can participate to use their sanitary facilities, which is much needed. A few years ago, a study was made about the feasibility of a sewer in Fish Camp, and we were told we would not get any federal help because there's too many rich people in Fish Camp. Also, a number of years ago, when I was on the Town Council, the supervisors had a study commissioned, and this whole area, our six acres and all of Block D was designated Resort Commercial. That was the highest and best use in this study. For people to hang on to an old planning device of many years ago that's antiquated, we need to move on.

**Response:** Comment noted. The comment does not raise a significant environmental issue which requires a response.

**Statement 2SNN:** Bart Brown: I was pleased that the issue was brought up about the bona fides of the developer, because in our last Mariposa project, the County had made no inquiry into the background of the developers, and it was citizens who investigated the background and found out they were providing false information to the County, so I hope the County will not be reluctant to make inquiries as they need.

**Response:** Comment noted. The comment does not raise a significant environmental issue which requires a response.

**Statement 2S00:** I'd like to address community self-determination. The SilverTip project in Fish Camp is a wake-up call for all of Mariposa County. This project would change the zoning in the community from Residential to Resort Commercial and allow for a large scale development, totally out of proportion to the existing structures. There are problems with sewer, water, wetlands, height limits, traffic congestion, commuting for workers, air quality, fire management,

YARTS and buses and several others. The plea will be it will bring tax revenues and jobs to the County. Since there is no unemployed work force in Fish Camp, the minimum wage jobs will require bringing people from a long distance. Since many of the structures may be time-shares, there will be less tax revenues than are being suggested. Mariposa County is in good fiscal health with several millions of dollars in surplus, and no need to sacrifice the Fish Camp mountain character for further commercialism. The larger issue which should concern all Mariposans is that of community self-determination. Fish Camp started in 1977 and worked for many years to develop a Specific Plan for their community. This plan designated their desires for the community's future. If our decision makers do not honor the community's desires, and decide that they, the Planning Commission and Board of Supervisors, will dictate what is best for Fish Camp, have no doubt they will do the same for all our communities; whether you live in Hornitos, Mt. Bullion, Lush Meadows, Jerseydale, Ponderosa Basin, Wawona, Yosemite West, Coulterville or anyplace else in Mariposa County, your zoning could be changed at any time to accommodate the wishes of a developer. Fish Camp has expressed their self-determination desires in their Specific Plan. We should support development within that framework that is not destructive of their environment and mountain lifestyle. We should resist attempts to destroy their Specific Plan, or projects that destroy the values for which residents purchased their property. If it can happen in Fish Camp, it can happen in any of our communities.

**Response:** Comment noted. The comment does not raise a specific environmental issue that requires a response. The general subject areas raised in the comment (i.e., sewer, water, wetlands, height limits, traffic congestion, commuting, air quality, fire management, and transit) have been addressed in the Draft EIR and Revised Draft EIR. As explained in other responses to comments, no timeshares are proposed. Timeshares would require approval of a subdivision map, which has not been requested.

**Statement 2SPP:** Jan Davidson: I'm a property owner residing on Forest Drive in Fish Camp. My background is in public school administration, human medicine and veterinary medicine, husbandry and rescue. I have grave concern about the expanded adverse impact on the wildlife in our area related to the proposed project if the zoning change is approved. The Draft EIR, Page 3-37, Impact 3.2-8 begins with the acknowledgment that there will be "Increased wildlife mortality due to collision and traffic generated by the proposed project." I'm speaking as a member and mountain coalition liaison for a rehabilitation facility in the foothills.

**Response:** See Response to Comment 51A.

**Statement 2SQQ:** Don Starchman: I'm here from Starchman Law Offices. I'm here with two hats today. I am the local representative for PacificUS, but also as a citizen, mainly my remarks today will be as a citizen of Mariposa. As an attorney, on my letterhead, I have done the written response that you've requested, so I'll present that to you first. For the 19 years I've been in this community, I've been very involved in the community with economic development for this county, and when Ron Coleman came to me about this project to represent him, my response was that whether he retained me or not, I was going to be here to support the project because I felt it was a good project. I was retained, and I have worked with him as a local liaison. As a member of the community, and as a developer, having done projects within the county, a lot of the things that are being used against this development are totally unfounded. When you have a Specific

Plan that has zoning lines that don't even go along property lines, that were not developed in terms of contour lines, and you have within the system a way to do planned unit development, you would be remiss not to master plan the whole project. You should not be criticized for doing what is in the best interest of the community and of the whole project.

To talk in terms of this great impact by doing a rezone, there's less impact on the property by moving this to that natural shelf to the left. You don't have the cut, you don't have the fill, you don't have the removal of trees, you don't have the siltation. You can go on and on with all of the additional environmental damage that would be caused by developing along these zoning lines.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SRR:** The Specific Plan, it's provided for in state law to be able to amend these. There's a reason for it, they are living documents. When you have a better product, you need to bring forward, you need to adjust and move on, and that's exactly what they've done with this project. We hear about this windfall also for the developer that we do this, and all the detriment to the County. We just went through a budget procedure with this County where we are in good financial shape. We're in good financial shape because of such projects as Tenaya Lodge bringing in a million dollars to this County. We need this type of project, and we need to protect it, preserve it, we need good, well thought-out projects. If this project is denied and built piecemeal along existing zoning lines, it will not be the quality project that you have before you today. This is a project that the whole community can take pride in and look forward to it being a beautiful complement to the whole community. Some people would like to talk in terms of the money being overriding on a project like this. The General Plan itself calls out the fact that the County needs to look at sources of revenue to conserve the citizens of the County. It also has language in there protecting the developer, or the private economy, it's right in the General Plan, and we are in compliance with it. We should not look down on the fact that this may bring in \$500,000, \$700,000 a year. As part of the budget proceeding, this last week we finally got the first step on our field of dreams. We need to be able to pay for that. We've got kids in this county that have gymnasiums with seating on one side, parents can't even get in the door to see the basketball games; girls having to get up at 4:30, 5:00 in the morning in order to be able to get to a facility where they can practice, swimming pools that are unheated, and we want to complain about maybe there will be some extra money coming into this county? This is the kind of project we need to support.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SSS:** The other thing that is happening in the industry right now are the destination hotels. Just within the last two months, Madera County has approved a destination hotel. The old Ducey's project, Pines Resort now is being expanded into a destination hotel. Merced County, as part of their redevelopment agency, is proposing a destination hotel. Tuolumne County has at least two of these on line that I'm aware of. What are all of these going to market? They are going to market the Yosemite experience. And if we do not have our destination hotels in place, and we need them in the Mariposa Town Planning Area, we need it at Hazel Green, and we need

it at Fish Camp, and if we don't have it, it will be marketed by the surrounding counties, and all we will get out of it will be the diesel fumes and the waves as people come by to spend their half day in Yosemite while they are having their Yosemite experience. This is a project that is good for the whole County, and it should be approved.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2STT:** William Roy Winterberg: I've been in Fish Camp for much of my life. For the last 30 years or so I've enjoyed the view of the meadow, I've enjoyed walking in it. From way back it has always been understood that that was basically a commercial zoning area, that there would someday be a motel there. In the area due north of the proposed project, there has been, since I was a little kid, a fairly large meadow that I used to go up and play in. It is evident on all of these pictures, and the main difference is, it was a meadow 30 years ago. Now it is not, it is almost completely overgrown. The hydrology changes. The area that the hotel is intended to go into now, at one time it was wetter. At one time there was a dam where the old railroad trestle went through, and it held water up there, but over the years, we've had a number of very large floods that have removed that, and that water holding capacity, although man made, was God eliminated. So a lot of the hydrology changes with time. I don't see any better options for the use of that property. It will be a very nice addition to the Fish Camp area and Mariposa County.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SUU:** Don Davidson: The topic I want to talk about which is totally inadequately addressed in the EIR is noise. It's defined as Impacts 3.9-1, -3, -4, all of them relate to noise ongoing secondary to the operation of this mammoth project. There are also noises that aren't addressed in those sections but should be. Appendix X of the Draft EIR both acknowledges that at Fish Camp Lane noise from the facility cooling system will be at 47 decibels and exceed the State of California Noise Control ordinance, which suggests 40 decibels is the maximum nighttime noise allowed or suggested. Page 3-143 of the Draft EIR indicates the level can be mitigated to less than significant, but it was not clear to me how this would be done. There seem to be some suggestions with no specific plan on how it will be done. Mitigation Measure 53 says it will be done, but what if it cannot be done? A disclaimer stated in several places that regarding noise "It is difficult to assess noise impact associated with these types of noise sources until equipment is specified and building construction details are available." That isn't an adequate mitigation. Why cannot the building blueprints and plan locations be made available before the project is approved? Why cannot the "equipment" be specified now? Are we to believe a project of this size is going to try out different sorts of heating, cooling, ventilation systems once it's developed until they get the right one? I simply don't accept that as an adequate mitigation. The same comments refer to the noise produced by the machinery in their tertiary wastewater plant. The first page of the document that I passed out to you is highlighted, on a CEQA regulation that talks about noise, and it's based on Appendix G of State CEQA Guidelines. The project would be considered to have an adverse impact on noise if it would result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. The second page of the three that I handed to

you is Page 6 of 14, Section X of the Draft EIR Appendices, Volume III, which notes the location of six noise test sites. Those noise test sites were located close to the general entry area of the project. No test sites were placed along Forest Drive, the Forest Drive cul-de-sac, or the portion of Forest Drive past the gate. There is much less roadway noise in these areas, but there's every reason to suspect the ambient noise levels in these areas will rise greater than 3 to 5 decibels, which the Draft EIR points out may constitute significance. Why were not noise detection sites distributed in these areas?

Completely omitted from the DEIR was noise related to the 40 cabin units adjacent to residential property. What equipment will be used in heating, cooling, ventilating systems for these cabins? Where will it be located? How much noise will it produce? Also omitted was any reference or mitigation related to the noise produced by tour buses as they sit with motors running waiting for the passengers. Will tour buses be allowed to enter the project? Where will they be parked? What mitigation is proposed to decrease this noise to less than significant? A very significant omission was the noise of snow removal equipment. At present in Fish Camp, in the winter we have a quiet peaceful environment, occasional transient noise from local residents, but very quiet, very placid. This project will subject us to snow removal every snowfall with its 40 cabins and huge parking lot. The tranquility of Fish Camp will be gone.

The last and most significant noise that occurs with this project is that of human noise. I'd like to take it back to the map I initially distributed, point out that omitted from this map, I'm sure not intentionally, is a residential area, I've penciled it in here. This is a residential area inside the gate, and it has a very close proximity to these cabins. The County of Mariposa has adopted or uses a sort of generic noise ordinance. If you look at the exhibit, the third page that I handed to you, this is just for illustration purposes, highlighted is a category normally unacceptable. All I wanted to point out here is that playgrounds seem to generate normally unacceptable noise, at a lower decibel rate than most of the other noises that you see. The importance of this is that playgrounds have the same type of noise that will be generated in these cabin sites. This project describes itself as a "destination resort." The implication of that is that it wants to attract guests who will come to the resort, stay there, maybe side trips to the park and other sorts of activities, but basically staying at the resort. Contrary to the very modest amount of human noise expected from a small commercial structure such as a motel that might have been appropriate for the 9-plus acres as defined in the Fish Camp TPA, and in contrast to the very quiet community that we have as far as human noise is concerned, this project proposes 40 different party sites, each with decks, each with two to three bedrooms relatively free from the usual restraints on noise found in a hotel or motel type structure. This is not a geographically isolated area, as is the Tenaya Lodge, where noise is a relative non-problem. This is like an acoustical bowl, with the residences of Fish Camp around the edges of it, and noises generated will roll up into our residences in a completely incompatible, never previously noticed, and certainly not tolerable way. It's right in the middle of Fish Camp. There are no physical barriers to minimize the noise or the ruckus of the partying guests from one or more of those cabins on any given night of the year. We could have them every night of the year. What mitigation could possibly make this element of noise less than significant to the residents of Fish Camp? Fish Camp is a very noise sensitive community of individuals. Before I came to Fish Camp, at Tenaya Lodge some four to six years ago, they were having outdoor concerts, and the uproar of the residential community of Fish Camp from those outdoor concerts was tremendous. It was brought back to you to be

reconsidered and certain restrictions were put on those outdoor concerts, based on the intolerance of the residents of Fish Camp for melodic sorts of sounds and outdoor conferences, not ruckus and human sounds from partying individuals in 40 camp sites. Based on that previous experience you had with Tenaya Lodge, this project cannot mitigate the types of noise that it will be producing.

Acceptable noise standard. Look down at D, acceptable outdoor environments. Another consideration to some communities as an overriding factor, and I would propose Fish Camp is one of those, is the desire for an acceptable outdoor noise environment. When this is the case, more restrictive standards for land use compatibility, typically below the maximum considered normally acceptable for that land use category, may be appropriate.

**Response:** See Responses to Comments 52M, 52N, 52O, 52P, 52Q, 52R, 52S, and 52T.

**Statement 2SVV:** Robert Keller: I am a long time resident of Fish Camp, property owner since 1960, ownership of property in Fish Camp since 1943, direct from family, my wife's family. We continue to own property in Fish Camp, in addition to what has been sold off to PacificUS for development. I'd like to confirm that the Chairman has made a statement at your previous hearing to the effect that the Planning Commission's responsibility is to have a complete Draft Environmental Impact Report delivered to the Board of Supervisors for review. I call your attention to the Draft EIR, Section 2.4. The section is labeled Compatibility with General Plan and Other Plans and Policies, page 2-4, it's the immediate page before the map area, 2-10. This section provides an overview of the project's compatibility with the Mariposa County General Plan, Fish Camp Town Planning Area Specific Plan, Zoning Ordinance and Subdivision Ordinance. This section is a description of the County's project objectives as reflected in the General Plan and Specific Plan goals and policies, and requirements of the Zoning and Subdivision Ordinances. It goes on to say, more detailed description and analysis of this subject is provided in Chapter 3 of the document. If you'll turn consecutively from this Page 2-4 to Page 2-13, as you read through that, the General Plan is described, beginning on the bottom of Page 2-4, it continues all the way to Page 2-13. If you've arrived at page 2-14, there is a rather bold print "Fish Camp Town Planning Area Specific Plan," and skipping very quickly over the preceding 12 pages or so, it describes the General Plan in quite detail. The following few pages, beginning on Page 2-14 through 2-20, describe the Fish Camp Specific Plan in terms of goals, policies, standards of the Fish Camp Town Planning Area Specific Plan relative to the proposed project, including the following, and it goes on to talk about such things as water facilities, traffic circulation, topography, soil erosion. I'm reading this for the benefit of people in attendance, that do not have what is in front of several of us. Then it goes on to talk about rare and endangered flora, land use policies and standards, including such detail as sign standards, such as off street parking standards. When you come to the bottom of Page 2-20, Section E, it makes a brief reference to Planned Unit Development overlay, land use classification. This is a very important part of this whole project's presentation before the Planning Commission and before the County. There is before you a Planned Unit Development and Planned Development Overlay 99-1, that is part of this proposed project, the applicant being PacificUS. The Planned Unit Development overlay, the land use classification is contained in the Specific Plan under Appendix IV, in the Specific Plan itself. Where does it appear in this document? It appears very briefly, at the bottom of Page 2-20, and at the top half of Page 2-21. That was adopted back in 1988, by County

Resolution 3-77, consisting of eight pages. The consultant, Quad Knopf, has made an adequate explanation of the Fish Camp Specific Plan, as far as it goes. It has made a comparative evaluation of the General Plan as far as it applies to this project. But as far as the description and explanation and analysis and evaluation of the Planned Unit Development, the overlay, which is explained here as Appendix IV of the Specific Plan, it is buried in this draft document. It's in Appendix I. I urge that the Planning Commission review in its entirety, the Planned Development Application Process, which is explored in Appendix IV of the Specific Plan approved by Board of Supervisors Resolution 88-377. I also have submitted for your review a copy of Mariposa Planning Commission Resolution 88-010, recommending approval of the amendment to the Fish Camp Specific Plan.

Second item is Mariposa County Resolution 88-377 approving the Amendment to the Specific Plan on this Planned Development application. The third item is the Planned Development Application, Appendix IV itself, in its entirety.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SWW:** Many references have been made to the ability of the developer, PacificUS, to carry on a project in a phased development schedule. In the Planned Development Application Process, as a condition of receiving approval of such a planned development, the facts submitted by the project applicant, together with the application, presented at the public hearings must first establish that each individual unit of the development, if built in stages, as well as the total development, can exist as an independent unit capable of creating a good environment in the locality and being in any stage as desirable and stable as the total development. The second requirement, the principles incorporated in the proposed development plan must indicate certain unique or unusual features which would not otherwise or could not otherwise be achieved under standard subdivision provisions. As to standards, in Appendix IV, of the Planned Development Application Process, Section J reads, "Standards, setbacks, building heights, distances between buildings, lot coverage, parking requirements and landscaping requirements shall be established by the Planning Commission for each planned development in a manner which assures suitable integration of the planned development into the neighborhood or area in which it is located." I urge the Planning Commission to review with the planning consultant this Planned Development Application Process so that we all understand it a little bit better.

**Response:** Comment noted. The Planned Development Application Process is described on pages 3-6 and 3-7 of the Draft EIR.

**Statement 2SXX:** Ron Coleman: We'd like to have several consultants speak on a number of issues that have been discussed in previous public commentary. The consultants addressing you today are Ken Schmidt, water hydrologist of Ken Schmidt and Associates; Dana Ripley of Ripley Pacific, with respect to wastewater; and Richard Strong, Law Firm of McCormick, Barstow, et al., then I would like to make some closing comments. First consultant that we would like to have is Ken Schmidt.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SYV:** Ken Schmidt: I'm a groundwater hydrologist in Fresno. I have 35 years of experience in groundwater, and I work in drilling of new wells, and waste disposal systems, groundwater monitoring, things of that nature. I have been involved in hard rock studies extensively in the Sierra Nevada starting in about 1974, and a lot of this started in Shaver Lake area of Fresno County. I also worked in the hard rock to do with the Jamestown gold mine for a number of years, and I've also worked on behalf of Mariposa County in Yosemite West area, developing wells. I've been involved here in the Fish Camp area professionally for three or four years, and the first thing we did was look over the existing wells. Wells two, three and four have been installed and pump tested for about ten days in 1988. These wells range from 800 to 1,000 feet deep. You that are familiar with the groundwater know that it's not uncommon anymore to have these deep wells in certain areas. Yosemite Lakes subdivision has wells about 1,300 or 1,400 feet now and I started working there about 1972, we had wells that were only several hundred feet deep. The State Health Department requested that we retest these levels because they have not been tested for 10 or 12 years and also to do more testing on the water quality. So these wells were tested, we have procedures from which we can determine what the long term well yield would be. We determine the ground water quality to see if it is acceptable for drinking water, and we also look at the impacts of other wells. This particular test went on for 25 days in late 1998, and the long-term yields of these wells pumping together of 2, 3 and 4, have been determined about 48 gallons per minute. I worked on a few other things. One was the insulation of the new well, Well number 5, in 1999. I have visited this site.

Well number 5 is only about 500 feet deep and basically hit the same water fractures and only had drilled about 520 feet because of the lower topography. This is not a real complicated groundwater system. I'll summarize the result of the pump test on Well number 5 done in 1999, the long-term yield of this well was 104 gallons per minute. This was a very good well, one of the stronger wells we've tested in the Sierra Nevada. We did a lot of extensive monitoring, not solely on our own but this was suggested and reviewed by the County, Environmental Health, the State Health Department also was reviewing this and we had several meetings with them.

The two Yosemite Alpine Village's Community Services District wells. Further west, this is the westerly well, and this is the easterly well. Those are wells in Yosemite Alpine. Those wells were deep and then deepened. We know how deep they were, the hydrology report was done in 1989. In 1997 those wells were deepened, one is 320 feet deep and another is 230 feet deep. We know the depth of the fractures the water comes from because at the time of drilling, the drillers keep track of this, and anything I'm involved with we try and keep careful track of it. So we observed the water levels in those two wells. There's a number of large casings out there, I think they are probably 12 inch diameter or something like that. These are very shallow wells that go in through the weathered zone. Only one of them is only 10, 15 feet deep, the others are 30 or 40 feet deep. We measured the water levels in about four or five of those wells. There's two deep wells that would have almost the same fractures the SilverTip wells do, Tenaya Lodge, one is 600 feet deep and one is 1,000 feet deep. One of those has a static level of over 550 feet, I believe, those wells and even several more were measured before we started pumping, during pumping and after we stopped pumping. The conclusion those tests show that there was no

influence whatsoever of pumping the SilverTip wells on the Yosemite Alpine Village Community Services District well, this is because they tap fractures above a depth of about 300 feet, and the SilverTip wells tap fractures of below a depth of about 350 feet.

When you work in hard rock, it's almost in some ways analogous to the alluvium San Joaquin Valley, and the fractures that produce water would be comparable to a sand or a gravel layer in the Valley, and the unfractured rock between these water producing fractures is like a big thick clay layer in there and that's exactly what we have here. The way we determine if fractures are connected is not by geology but by hydrology, by hydraulics. We pump a well and observe wells. Absolutely the fundamental test would be the hydraulic test. We could do a lot of theories about geology, and if you look at all these logs, the ones that look like they are connected in the geology, we proved they are connected, so when we pumped Well number 5, the only drawdowns were in 1, 2, 3 and 4 that are also tapping the same thing, and those drawdowns were not great, but they were several feet after 16 days of pumping over 100 gallons a minute, so we get drawdowns only in wells that tap the same vertical, and this is true anywhere in the San Joaquin Valley and places we work.

The pumping of these wells does not influence the creek or the meadows. There's several reasons why, and one of the things we did is determine water level elevation, so you take the depth of water in the well, put it on an elevation basis, and we know that the ground water in these fractures moves to the east, and at Well number 5, near Big Creek, the ground water level is below the level of the creek, so the ground water level in these deep fractures is well below both the meadow and the creek.. I anticipate no action/reaction between the meadows, the wetlands and the wells. Our test did show one thing very interesting, once we stopped pumping for 16 days, water well recovery was measured for that period or longer, and we discovered that the westerly Yosemite Alpine Village well does influence the shallow wells. We found out that one of those wells was influencing the water level in the shallow wells, the shallow test holes I mentioned, the big casings that are in the meadow that are 30 feet deep. At least one of their wells, the records indicated back in 1989, was only 60 feet deep. The average seals, if you forget Well 5 because the weathered zone is very shallow there, we just put in a 50 foot seal. Forgetting that, the other ones are about 50 or 60 or 65 feet, meaning that was the depth of the weathered material, so if you have a 60 foot deep well it was almost in the weathered zone. All of the SilverTip wells, we have documentation of their seals, we do not have documentation of seals on the Yosemite Alpine Village wells. Their builders logs to my knowledge are not available for Yosemite Alpine. So basically you could say there are two, three different layers there. One is the water in the weathered material. Down at well 5 it is only about 20 feet thick near the creek, though up hill it is thicker. That's not an unusual situation, so water moves from snow melt down slope in this weathered material towards Big Creek, and I'll come back to that to talk briefly about the wastewater influence.

The other system, and this is the water that's being used by wells in the area, is in the hard rock fractures moving to the east. The deep one has such a low water level that this is below the meadow and below Big Creek itself and has no relation to that. The fractures that are shallower, from 50 to 70 feet to 200 or 300 feet deep, this has some connection, theoretically, or could to the meadow area. We have not done any pump tests for the shallow meadow wells. There's some there.

**Response:** Comment noted. This information has been incorporated in the Revised Draft EIR, Section 3.4, Water Quality and Quantity.

**Statement 2SZZ:** Dana Ripley will talk about the wastewater treatment, but I want to mention one thing about this effluent, where it goes, and it's very important to understand, the effluent in leachfields is not all of the effluent. In the summer, a good part of this will be reused. The part that is percolated is in the weathered zone in these materials that go down to a depth of 50 feet or whatever, and as this moves down slope, one of you was asking, what is the rate of flow. It's about 30 feet to water in the leachfield area. We have three monitor wells there already. Someone was asking this morning about how you would monitor this, but we already have three monitor wells installed there, they were put in to measure water levels during the snow melt and to be usable as water levels for water sampling when this project is undertaken. There's a depth of water of about 30 feet underneath the leachfield, once this effluent reaches the ground water level, this would probably takes weeks or a month's time, this water would move laterally in these weathered materials.

Now, the weathered materials it's not like that water is in a pipeline, because something happens to ground water in the weathered materials. What happens is that plants use it, so whenever we're working in meadows, even in a surrounding forest where there's water in the weathered zone, there's going to be some use of this water, so there's a high degree of probability that the small gallons per minute, our whole water supply is 45 or 50 gallons a minute, and only part of that is effluent, and only part of that is in the leachfield. By the time this moves down and ever got anywhere near Big Creek, if it could, most of this would mix with other water, but most of it would already have been consumed by plants or evaporation.

We're doing a more detailed antidegradation analysis. The Regional Board's main letter on that was written before we had put in the monitor wells in the leachfield area, tested water levels through the snow melt and so forth, and this is to be completed within two weeks of today and be submitted. The water quality has been shown to be good, the wells have been tested, and there's suitable water in the Silvertip Resort wells that we've been discussing.

**Response:** Comment noted. This information has been incorporated in the Revised Draft EIR, Section 3.4, Water Quality and Quantity.

**Comment 2SAAA:** As far as I know, the Provost and Prichard firm in Fresno did the water supply evaluation report, and fire flow's being met to my knowledge, largely by storage, but this well capacity came up with of 45 to 50 gallons per minute includes meeting fire storage.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Comment 2SBBB:** Ron Coleman asked me to talk about the Chevron station, and I have kept up with the studies there. They did sample the Yosemite Alpine Village wells, plus Well number 5 again. We tested, when we drilled Well number 5, we tested it for MTBE. It's non-detectable. All of those wells, it is non-detectable. They have done some cleanup of the groundwater by

pumping out of the excavation, and the MTBE level has now been decreased substantially in the groundwater, so that's a very positive thing. The MTBE is really not moving toward the water supply what was there, upgraded in the groundwater. The clean-up wells are right in where the excavation where the tank was removed. You have monitoring wells around it. I think they are sitting out from the tank itself in the range of 50 to 100 feet.

**Response:** Comment noted. This information has been incorporated in the Revised Draft EIR, Section 3.4, Water Quality and Quantity.

**Comment 2SCCC:** Dana Ripley: I'm a registered civil engineer based in Pleasanton, California. I've been in various facets of the waste water industry for about 20 years. I was the principal author of the original report prepared on this project in early 1999. I have been on the project site a number of times. The outline of my presentation will be principally four items. First, I'd like to go over a brief project description of the wastewater facility, then I'd like to direct attention to regulatory issues. There were some comments made earlier today, and we had a representative of the Regional Water Quality Control Board, and I'd like to address those issues. Third is the antidegradation issue, and I'd like to discuss the antidegradation issue in a broader context, in terms of this issue in relation to federal and state policies, and how it applies to SilverTip. The fourth item I'd like to discuss is the ongoing monitoring. That is how do we control the liability issue? How do we ensure that the facility that I'm describing here today will operate correctly for the life of the project?

First of all, a very brief description of the project. This is a review of the material that is in the EIR. First, there will be the development of the hotel and the cabins. We will transmit wastewater by gravity to the wastewater treatment facility, which is in this location. That facility will be not only a tertiary facility, but I'll describe some treatment beyond tertiary. From this treatment facility, we'll discharge to a surface reservoir up on the hill, and then from that reservoir, the effluent will be used for either irrigation on site or disposed of subsurface to a leachfield. We've made the decision in the last few months to do a closed reservoir. We're talking about a circular vertical wall tank with a cover, a circular water tank. I think the latest dimensions were 60 feet diameter and 12 feet high. It will be a metal tank with a rigid cover. There will be no odors from it.

I'd like to go over a little terminology. I want to make sure we understand what tertiary means. We've been talking about a tertiary plant. This facility is, in fact, a tertiary treatment plant, but we even have treatment beyond tertiary that I'd like to describe. Primary treatment is physical settling of solids. A septic tank is a good primary treatment. Secondary treatment is biological oxidation of organic material in the wastewater. You may or may not know that a septic tank does provide a significant amount of biologic treatment, but it does it anaerobically as opposed to aerobically, which means with oxygen. This facility is an aerobic treatment facility, and brings the organic material down low enough that we can provide tertiary treatment. That word tertiary simply means third stage. In more simplistic terms, it is a water treatment facility on top, behind a sewage plant, and it is using very conventional technology that is used to treat surface water all across the country.

The effluent quality required by the State of California, both the Regional Water Quality Control Board and the Department of Health Services, is very specific from health standpoints as to what the treatment requirement is and what the quality is required to be for irrigation in an unrestricted area. Unrestricted being next to a recreational building. We are meeting those requirements. Not only does the state have very specific requirements for effluent quality, they have very specific requirements for operational features, such as redundancy. Every critical component in that plant must have a back up.

During the summer when we are irrigating, and I might mention the irrigation, the reuse of about half of the water will save the project about 20 acre feet a year that will not be required to be pumped from the groundwater for irrigation. During the winter when we are unable to irrigate, we propose to use the leachfield. The water quality for leachfield disposal is higher than the water quality required for surface irrigation. Not only is it tertiary treatment, but we have a nutrient removal requirement. As opposed to other projects, for instance the Tenaya Lodge, has recently changed their operating procedure to use subsurface disposal 12 months a year, we propose to use it six months a year, or five or six, in that area. Storm water does not come into the treatment plant. During the summer, but during the winter it's just untenable, the hydraulics just don't work.

**Response:** Comment noted. This information has been incorporated in the Revised Draft EIR, Section 3.4, Water Quality and Quantity.

**Statement 2SDDD:** I'd like to discuss the regulatory environment. The wastewater reuse business is probably the third most regulated industry in the United States, we are very highly regulated. For on-site treatment facilities, permits that Barry Hilton, who spoke this morning from the Regional Water Quality Control Board, the requirements can be 30, 40 pages long. Not only do they have specifics about what the treatment facility must do in actual performance, the regulations specify water standards that Ken Schmidt talked about earlier, and they specify monitoring requirements, and reports will be required to be sent to both Mariposa County Health Department and the Regional Water Quality Control Board monthly with annual reports due in January, so there is that monitoring control that will go on for the life of the facility. I would like to address a point that was brought up this morning with respect to NPDES permits, and preface my discussion to talk about two permits I have in my hand. One permit is the Tenaya Lodge permit the California Regional Board issued in June of 1999, and a second permit is the City of Merced permit issued in October of 2000. Both of these permits were issued by the same office in Fresno, the office that Barry Hilton is staff at. Tenaya Lodge does not discharge to a waterway, it is all subsurface. The heading on this is a California Order by the California Regional Water Quality Control Board, it is not an NPDES permit. The City of Merced does discharge to a natural waterway, and it is both a California State permit and NPDES permit for the wastewater. The permit that we're applying to, to the Water Quality Control Board will not be an NPDES permit because there is no discharge to Big Creek. They won't be using the discharge into the creek as a backup system. Not only do we have provisions for redundancy within the treatment plant, redundancy meaning each critical component, somebody sitting by ready to go at all times. And they are duplex, switching back and forth, so a pump doesn't sit there for six months not being used. It's used routinely, but if it fails, its sister is used. On top of that, we have power standby in the facility, and on top of that, we have emergency reservoir, if

everything fails, we have a facility right next to the plant for storing peak flows for three days, and peak flows happen very, very rarely. It is a reservoir lined with hypalon or PVC that will hopefully never be used. It can be open or closed. If it's closed, it would be a bladder.

**Response:** Comment noted. Relevant information has been incorporated in the Revised Draft EIR, Section 3.4, Water Quality and Quantity.

**Statement 2SEEE:** I'd like to share two points on the antidegradation issue, with respect to the two permits that I've discussed. The Regional Boards and the State overall in the regulatory environment seem to be in transition on a number of water quality issues and this antidegradation issue we have found is one item that seems to be in transition, it's been on the books for 20 years and it seems to be coming to the forefront now with the regulatory staff, and it has become an issue not only for the SilverTip, but for a number of communities state wide. And I think the Regional Boards are trying to determine what their role is and what the interpretation of the state and federal statutes are.

The Tenaya Lodge submitted no antidegradation analysis. This was October of 1999, yet the Regional Board made a statement that the project fully complied with the antidegradation policies, both at state and federal level. In the Merced permit, that was issued October of 2000, it has antidegradation requirements that are triggered only if they find degradation of groundwater. We are going the extra mile to do the antidegradation analysis as a part of CEQA, and we plan to have our report update to you and to the Regional Board within two weeks.

**Response:** Comment noted. Relevant information has been incorporated in the Revised Draft EIR, Section 3.4, Water Quality and Quantity.

**Statement 2SFFF:** Ongoing monitoring, there are very specific monitoring requirements that are detailed in these reports and they are required every month, as long as the property is occupied, those monitoring reports are required. If there is a problem with the failure to monitor or failure to meet criteria, Regional Boards have enforcement powers, and the Regional Boards are not timid about using those powers.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SGGG:** Regarding the life expectancy of the facilities, I'm a conservative designer, you can build facilities that will normally have a 20 or 30-year life, and you can add five or ten percent to the cost of that facility and go 50 to 100, and if you take care of it, you can go 200. I'm talking poured in place concrete with epoxy coating and epoxy rebar. If you get corrosion problems, you can fix them, the limitation on the life of the facility are structural elements, and if you protect your structure and take care of it, there's no question you can get 50 to 100 years out of it.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SHHH:** Any treatment facility is expandable (to serve the community). There's economics. As a designer, I will always try to get my client to buy as much capacity as he can afford, because ultimately, it will be used, in my experience. The build-out period may take longer than what you project, and that impacts your economics, but if you design it for a capacity of Q, your economic scale will be so much better than a capacity of half of Q.

**Response:** See Response to Comment 22RA.

**Statement 2SIII:** Septic tanks have been around for two centuries or a century and a half, and people are just now coming back, looking at a step into the future as a step backward in the utilization of septic tanks. And I'm becoming an advocate of effluent collection, the use of and benefits of a septic tank, and there is a terrific amount of treatment that goes on in a septic tank that most people don't realize. And the beauty of the septic tank treatment is it requires no energy.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SJJJ:** I've been asked to add one more item. There's a concern I'm hearing on reservoir here, reservoir there, is it closed, what are the effects. What we're proposing here is a treatment facility that will be housed in one building, as opposed to a facility that's across the street, looks like quonset huts dispersed around, we will be doing none of that. The facility will be poured-in-place concrete, about a 2,000 square foot facility. We will be controlling all the noises and odors. We will process air through it positively. We use blowers and carbon filters, and what we call subsurface soil filters. That facility will look like a nice cabin. I've got a picture of one under construction, and I'd be happy to share it with you. On approval of this project we look forward to building what Ken Schmidt and I believe is absolutely state of the art.

**Response:** Comment noted. Relevant information has been incorporated in the Revised Draft EIR, Section 3.4, Water Quality and Quantity.

**Statement 2SKKK:** Richard Strong: I'm an attorney from Fresno with McCormick, Barstow. I've been a lawyer for 20 years. I've been involved in the development business most of that time, and I'm going to talk about some of my experience. I'm going to talk to you today about the question, why do we need a Plan amendment? One of the questions that's been floating around, couldn't you do something there, even this project, and not be coming here and asking us for a Plan amendment? We're asking to change the Single Family Residential designation to Resort Commercial, and increase the maximum height limit from 35 to 45 feet as is allowed under the County General Plan, and we're asking for a Planned Development overlay, which is considered an addition to, or augmentation of the Fish Camp Specific Plan. That's in Appendix IV, part I, Section (D) of the Fish Camp Specific Plan. Why do we need these Plan amendments? Couldn't this project be done without amending the Plan? Some project could be done without an amendment, but it wouldn't be this beautiful project here. It wouldn't be a project that's going to be as positive for the community. This project takes the high road. More benefits, fewer burdens, than a potential low road project might. We've got 47 acres, about nine acres carry the Resort Commercial designation today. The other 30 acres or so are designated Single Family

Residential, one-acre minimum. On the nine acres, without a Plan amendment, a developer could get approval presumably for various commercial uses, and I didn't find any restriction on mass intensity for commercial uses other than the 35 foot height limit and the setback requirements that are described in the Plan. And you can find those in Specific Plan Section VI, (A)(2) and (3)(a.) Presumably, those uses could be located much closer to the main road than this project has proposed. I have visited the site. I saw where the remains of the Silvertip Lodge are, right there on the highway, with a much greater visual impact. Without a Plan amendment, you could do about 78, what the Plan calls lodging units, in this 9 acres, including motel/hotel rooms, other residences, and if you did that, there would be some trade-offs that you'd have to do. You'd have to have about 60 percent of the project area to be about 5.4 acres in some kind of open space, whether purely open space or maybe some landscaping and passive recreational use, walking trail, that kind of thing. But the other 3.6 acres could be developed with buildings and hardscape and so on. So far, on the 9 acres, we've got 5.4 acres of open space, on the other 3.6 acres, I guess you could do 38 houses. There wouldn't be any open space requirement at all. There might or might not be a requirement to develop or hook up to a community sewer and water system. There wouldn't be any requirement that there be centralized management or control over those 38 homes. You could have 38 parties going on and be dialing a lot of phone numbers before you got the right one and get it settled down. What assurance would there be, assuming somebody bought one of those 38 houses and decided to rent it out, that the County would have a lot of luck collecting its transient occupancy tax. It would be an enforcement issue with that kind of scenario, so without a Plan amendment, you could get about 116 lodging rental units on there, as much commercial as you could fit onto 3.6 acres, and about 5.4 acres of open space, and among the things you might do with that, we haven't suggested it, but somebody suggested that the Park Service is looking for dormitory lodging for some of its youthful summer workers. In contrast, the proposed project, which needs some amendments to the underlying use, would have the following features: over 37 acres of open space. That's seven times the open space required without a Plan amendment. Centralized management for 40 cabins. Noise and light control, design and maintenance control, one phone call to make when there's a problem, instead of 38 phone calls. There's even less doubt about collecting the transient occupancy tax. There's more density, 185 centralized, centrally managed lodging units, 137 in the hotel, 40 cabins and 8 of these shopkeeper units versus 116 not so centrally managed units.

I heard some talk last Saturday about, if you go to this commercial recreational zoning, you are going to have 320 units. That's not true, that's not what this project is asking for. With the CUP and planning design overlays that's being done here, you are going to be locking in this density permanently. It's not going to go to 320 units or something else. What if you didn't get the Plan amendment, there's a couple of things about this project that are interesting and fun and meet one of the goals. The plan, which is to provide a diversity of housing type, and that's these eight shopkeeper units. If a developer was unable to get some of this increased density, those might be the first thing to go, but they are here as part of this plan. Because we're asking for a Planned Development in this Planned Development zoning overlay, there's a timeline for development that's required. If you look at Appendix IV, in order for this to work, the developer has to propose a plan and a timeline for buildout. There's even a provision in there where there's a bond they have to post in case you have to go to court to fight with them about it. It's all laid out there in Appendix IV, so the Plan should be amended so that you can do a better project. An amendment is even contemplated, Part V, Pages 13 to 14 of the Specific Plan talk about what the

objectives of the Plan are. Objective Number 2, to provide for and promote planned commercial and residential development within the town plan area. Number 3, to promote the recreation and tourist industry of the community. Number 10, to promote a diversity of housing types, Appendix IV to the Plan, Part I (A)(4) says that a planned development is intended to provide a process which can permit or encourage logical desirable development and carry out the objectives of the Specific Plan, and then lists a number of ways that that process can encourage such development, and at the same time, carry out the objective as planned, including: Number 1, flexibility in locating commercial development in close proximity to residential development; Number 2, clustering of housing within smaller areas than otherwise allowed; Number 3, locating commercial uses adjacent to or even within residential areas; and Number 4, permitting planned developments on a large scale. Every Plan amendment isn't necessarily destructive of the Plan or its goals. The amendments that are being sought here will really be in furtherance of some Plan policies that are rather clearly stated, and they will facilitate the development of a rather high quality project that's going to be more of an asset and less of a burden to the community than perhaps one without a Plan amendment might be.

**Response:** Comment noted. Relevant information has been incorporated in the Revised Draft EIR.

**Statement 2SLLL:** The EIR process isn't about requiring that a project be created with zero impacts of any kind whatsoever. What it's about is making sure that there is sufficient environmental information about the impacts, so that an informed decision can be made by you when you make your recommendation, and then ultimately by the Board of Supervisors. I'd like to quote and put into the record a case, it affirms a holding from the Laurel Heights case, well known. It says the purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind. And the case I'm citing is called *National Parks and Conservation Association vs. County of Riverside*, decided in 1999, and it's reported at 71 Cal. App. 4th, 1341, and makes rather clear what this process is and isn't about. There were some comments this morning, and I am going to respond to a couple of them. There was an allegation that certain persons were out, maybe even breaking the law, disrupting things and carving trenches out of the meadow, and that you weren't told about this, and there wasn't any information on it. That's not true. Look on Page 3-28 and 3-29 of the Draft EIR, you'll find a pretty comprehensive discussion about that issue. They must have missed that during their review.

In the early 1980s, I went to work with Fritz Grupe East, company in Stockton, in their in-house legal department. We had close to 200 companies set up in that company. We had projects all over the country, and that's just part of running a large business and having a lot of projects. There's nothing immoral or illegal about having lots of companies that you are involved in, and there's certainly nothing wrong with shutting some of them down once the activity for which they were set up has been completed.

As for the reference to the couple of bankruptcies earlier, I'm sure the Gibson Dunn law firm understands that when you have a single asset entity and you have paid off all your creditors, which was the case here, that when you go to sell those things, your purchaser wants the assurance that there aren't going to be future, as yet unknown claims showing up to bite them. It

is not unusual or unheard of at all in that instance to run an entity through bankruptcy so that you can make a clean sale. So while they come here and serve a legitimate purpose by raising issues that ought to be addressed so that you do have complete information from which to make an informed decision, it's regrettable those kinds of allegations are made by people who should know better.

**Response:** Comment noted. See Response to Comment 5.1B. The remainder of the comment does not raise a significant environmental issue that requires a response.

**Statement 2SMMM:** Ron Coleman: I'd like to address some previous public comments, some of them today, and most of these have to do with comments that were made last week. There was a comment last week that traffic was not properly analyzed. VRPA Consulting Firm, along with Caltrans, has analyzed the traffic generated from this site, and they determined that there was a level of service that would be impacted at Fish Camp Lane and Highway 41, and in that regards, there would be a mitigation proposal to add a left-hand turn lane on to Fish Camp Lane from the northbound Highway 41 traffic. There's been a suggestion from Caltrans to put a deceleration lane in southbound, and an acceleration lane in northbound, but that was not recommended as a mitigation measure.

**Response:** Comment noted. This information is included in Section 3.6 of the Draft EIR. See Response to Comment 70SSS.

**Statement 2SNNN:** In addition, the question about whether or not the developer was obligated to pay impact fees is covered in the Draft Environmental Impact Report on Pages S-1 through S-32. Fees are in addition to any improvements that are made in kind for other disturbances, for instance, in the landscape area we would be replacing trees, as required in the conditions of approval. School and park fees are identified, fire and emergency response equipment, and other fees are identified in the Draft EIR.

**Response:** Comment noted. The comment refers to the Executive Summary of the Draft EIR, which includes a summary of mitigation measures and the monitoring program. The actual text of the measures and monitoring program are set forth in Chapter Three of the Draft EIR.

**Statement 2S000:** The next item is emergency evacuation. This issue is connected with the traffic issue, in case of a forest fire. The recommendation by Chief Lane is to hold the SilverTip occupants in the meadow area for a period of time until the fire passes, and not to get on Highway 41 and complicate the traffic issue in case of emergency.

**Response:** See Responses to Comments 54T and 54U.

**Statement 2SPPP:** It's also been suggested with respect to the decorative ponds that somehow the applicant was going to provide mosquito abatement in some manner that was going to affect the CSD wells in particular. The proposed improvements in this area would be artificially lined, they would meet all of the Department of Health Service requirements, Regional Water Quality Board, Army Corps, U.S. Fish and Wildlife, and any other agency concerned.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SQQQ:** One of the topics that we're very sensitive about, and I know the community is sensitive about, is fire fighting, and volunteers as a mitigation measure. SilverTip will provide equipment, construction to house the equipment, as well as EMT and fire fighting volunteers. It's also suggested that some of our internal roads had a grade in excess of the County requirements. They will not. They will meet County standards. I believe 12 percent is the maximum grade.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SRRR:** Last week there was a presentation made with regards to a letter that the Department of Health Services issued. It was issued I believe on July 30th of this year by Carl Carlucci, and it had to do with this public testimony indicating that a new public water system would not be able to be formed because there are so many already existing in Fish Camp. That's not quite the case. According to Mr. Carlucci, in a phone call to him this week, he wanted to make sure that he gave the impression that he would rather see a combination of these systems rather than a new system being generated. As long as somebody could satisfy the technical management and financial requirements, that under law, he would have to issue a permit.

**Response:** Comment noted. See Letter 2 and Response to Comment 2A.

**Statement 2SSSS:** In regard to several items that were presented this morning by Mr. Dintzer, the wetlands exhibit, I had a chance to review the wetlands exhibit that he submitted that indicated there was a five acre wetlands designation two months prior to the two acre designation. That's true. There was a five acre designation, but that five acre designation included two properties, the proposed SilverTip property as well as the 16 acre property on the south side of Highway 41. We undertook a delineation on both of those properties, at the time that we submitted the SilverTip delineation to the Army Corps, who has jurisdiction, we believe, in the case of wetlands. They found that two acres of waters are involved with respect to the SilverTip site.

**Response:** Comment noted. See Response to Comment 52Z.

**Statement 2STTT:** In regard to the fiscal impact analysis that was provided as support for the application, but not part of the CEQA process, was provided by Al Gobar and Associates and Al Gobar relied upon a market research study that we had conducted by PKF Consulting Firm. PKF is a well-known international hotel research and marketing company. Those documents have been submitted to the staff, and they are available for review.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SUUU:** I was going to talk about the phasing plan. In any development, you look at ways in which to develop the property. Your requirements in the County, and the Specific Plan required us to submit a phasing plan. What we would do in the first phase of this plan, it's in

record, it's part of the application, is to make all of the infrastructure improvements, sewer, water, road improvements, and do the hotel portion itself as the first phase, and then incrementally thereafter, under the plan, we would bring in the other two elements, the mixed use element and then the cabin element. In summary, PacificUS has spent a great deal of time trying to understand the potential issues surrounding this development. We've engaged both Fish Camp and Mariposa County residents at large in discussions involving this matter. Four years of research and study as evidenced by the Draft Environmental Impact Report, its appendices and other documents will attest to that fact.

Are there other development plans that would work on this site? Perhaps, but we feel that this submission is the best plan for the site. All we're asking you to do is review the facts in answering the question, does this plan meet and advance Mariposa County's objectives and its goals. Please consider the recommendation of the SilverTip Draft Environmental Impact Report and its related applications.

**Response:** Comment noted. The proposed Phasing Plan is described in the Revised Draft EIR.

**Statement 2SVW:** It's pretty apparent when you see, walk the site, where paths of both humans and animals travel. Most of that travel appears to be on either the old railroad bed or the loop road, and there are some other areas up near the water tank on the north side of the development, but I would believe that animals, as well as humans are pretty adaptable, and that they could find their way through these open corridors in the development. A specific study in that regard has not been done.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2SWWW:** What we would propose with regard to lighting is to shield and use low level lighting to diminish any of this kind of glow or offsite consequences.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

## **Minutes of October 19, 2002 Fish Camp Planning Advisory Council Meeting**

[Note: Minutes provided by Mariposa County Planning Staff].

**Statement 1RSA:** Ron Coleman of PacificUS, the applicant for SilverTip Resort Village, addressed well and wastewater issues presented in the Revised DEIR. He reiterated that there is no interaction between the community service district wells and the SilverTip wells due to relative depths of the wells and the geology of the area. He added that all infrastructure will be installed during the first phase of site development and that only the structures would be phased.

**Response:** Comment noted. This information is incorporated in the Revised Draft EIR.

**Statement 1RSB:** Gene Glendenning stated that the time reserved for presentation by Gibson, Dunn & Crutcher was deferred to Don Davidson. Mr. Davidson addressed the zoning of the

leachfield issue stating that PacificUS has not applied for a revised zoning designation for the area. The new proposed zoning designation needs further environmental review. He stated that the project is not consistent with the overall goal on page 6 and the objectives on pages 13 and 14 of the Fish Camp Specific Plan and that the Plan already allows for some commercial development as approved by the community.

**Response:** Consistency of the proposed zoning with the goals and objectives of the Specific Plan will be determined by the Planning Commission and the Board of Supervisors. The comment does not raise a significant environmental issue that requires a response.

**Statement 1RSC:** Mr. Davidson addressed peer review statements contained in the Revised Draft EIR and Impact #3.4-10 relating to supply of groundwater and impacts on existing wells. He does not agree with the conclusions of the peer review. His well, which is located above the meadow, was not tested for impact. Relevant adjacent wells were not tested and he calls into question the water study done by Kenneth Schmidt and Associates.

**Response:** Section 15151 of the State CEQA Guidelines states that: “Disagreement among experts does not make an EIR inadequate...” See Response to Comment 3RA.

**Statement 1RSD:** Mr. Davidson asked why the project is being built in phases and stated that Tenaya has been ineffective in phases. He asked further what the developer's resources are for carrying out the project. He said there could be multiple owners presenting a problem for the management of the project infrastructure. It will be a future problem for Fish Camp and the County.

**Response:** See Response to Comment 6R.

**Statement 1RSE:** Mr. Davidson further called into question the snow removal plan as presented by the project applicant. He stated that the number of snow removal areas is not adequate.

**Response:** Comment noted. The size of the parcel and the amount of open space will provide adequate areas for snow storage.

**Statement 1RSF:** Ron Young, representing the Fish Camp Property Owner's Association, stated the site plan as shown in Figure 2-7 of the Revised Draft EIR is inadequate for review. It attempts to present too much information and is difficult to read. He discussed the proposed amendments to the Fish Camp Specific Plan and stated that it is not an appropriate time to consider such significant amendments to the Plan. Such amendment should be reviewed when the entire Specific Plan is reviewed under the overall General Plan update process. He stated that the amendments to the wildlife text should undergo further environmental review. The addition of the proposed Outdoor Recreation and Noise sections, as well as amendment to Government Organization and Services text, should be undertaken during Specific Plan review. The proposed Fire section contains inaccurate information regarding volunteers. The stated response time is inadequate and that the stated equipment is not always available. He added that the solid waste disposal transfer station is on Forest Service property and it may not be there in the future.

**Response:** Comments noted. The comments do not raise significant environmental issues that require a response. The information on fire protection was obtained from the Mariposa County Fire Department.

**Statement 1RSG:** Mr. Young stated that addition of proposed Residential Density and Building Intensity standards to the Specific Plan needs further study. He questioned the definitions included in the proposed Circulation section. He stated that Highway 41 is already dangerous and the situation should not be made worse by changing the standards.

**Response:** See Responses to Comments 15RB, 17RE and 20RM. The proposed Specific Plan amendments do not change the Level of Service standard; rather they specifically apply the County's standard to the Specific Plan. See Response to Comment 20RN.

**Statement 1RSH:** Regarding the proposed new Specific Plan section titled Financing New Facilities and Services, he stated that there is no public benefit to be derived from the project and that it could be a white elephant. He questioned whether the community needs more rental units.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 1RSI:** He stated that the proposed additions to the Specific Plan's bibliography may not be accurate.

**Response:** Comment noted. See Response to Comment 20RQ.

**Statement 1RSJ:** He concluded with the statement that the Property Owner's Association Board considers the amendments to be premature and inaccurate and may be inconsistent with community values.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 1RSK:** Barbara Taylor representing Block D property owners stated that the Department of Health Services (DHS) has inadequate description for the Block D water supply. There are 26 cabins, 11 in full use. DHS says only two or three are hooked up to the water supply. She stated that the Post Office, Keller property, Standard station and Winterberg parcels are also on the system. She stated that the Final EIR should address impacts to the entirety of the properties that are hooked up. She stated that water demand information in the document must be accurate. She stated that there is no filter on the system, but that DHS states there is a filter. She addressed Impact #3.4-8 regarding the potential lack of a safe, adequate domestic water supply to serve the proposed project and existing development and had concern about provision of water to Block D in the future. She added that two springs used as water supply sources by Block D are now dry. She submitted pictures into the record showing these water sources. She stated that the only source of water for Block D is Well No. 4 which produces seven gallons-per-minute. She addressed information provided in the Water Quality and Quantity section of the Revised Draft EIR and stated that the project would have a significant adverse effect on Block D water.

**Response:** See Responses to Comments 11RA, 17RC, 17RF, 17RG, 17RH, and 17RM. The owner of the system states that the system does have a filter.

**Statement 1RSL:** Ms. Taylor stated that Block D had to have an offsite well under provisions of the original subdivision and that it was required to have participation in the Yosemite Resort Properties water system. She added that Block D has a prescriptive right to Well No. 4. She concludes with the statement that accurate information regarding Block D water will be sent to DHS and Mariposa County.

**Response:** See Responses to Comments 11RA, 17RC, 17RF, 17RG, 17RH, and 17RM. Any additional information submitted timely by the commenter will be included in the administrative record.

**Statement 1RSM:** Kirk Helland, a property owner in Fish Camp, stated that the Fish Camp Advisory Committee members should submit a financial disclosure statement. Mr. Toll stated that County Counsel determined that advisory committee members are not required to submit such disclosures. Mr. Helland stated that amendments to the Fish Camp Specific Plan should not be considered until further review is undertaken. He stated that it appears that the project applicant is attempting to get the Specific Plan to fit the project as opposed to making the project fit the Plan. He stated that Amendment no. 7 would allow a tripling of Resort Commercial property and density. The amendments to the Fish Camp Plan would allow a tremendous increase of density that the Committee should look at carefully.

**Response:** Comment noted. The comment does not address a significant environmental issue that requires a response.

**Statement 1RSN:** Mr. Davidson returned for additional statements regarding his opinion that the meadow is being written off as not environmentally sensitive because it has been disturbed, but the Revised Draft EIR does not state what caused the meadow to be disturbed. This must be stated. He stated that he has a prescriptive right to the watershed along with Block D and others. He stated that the drawdown tests appear to be based on ancient water which can be depleted. He said the water situation needs further study since the project will be withdrawing 23 million gallons of water per year. He added that there is insufficient recharge rate information.

**Response:** See Responses to Comments 5.1B, 7RA through 7RF, and 22RB through 22RF.

**Statement 1RSO:** Mr. Davidson expressed concern with the statement from the County Fire Chief that fire flow storage can be reduced. He stated that this statement came in the form of a conversation with no specifics given as to why or how this can be reduced and that fire flow storage was based on this conversation. He says this needs further study. This related to Impact #3.4-11 of the Revised Draft EIR. He added that sprinkler systems for the cabins are not mentioned when it was mentioned earlier in discussion of fire flow in the Revised Draft EIR. This relates to proposed Mitigation Measure #11R regarding required water storage.

**Response:** See Response to Comment 5RA.

**Statement 1RSP:** Mr. Young returned for statement and stated that Page 6 of the Specific Plan talks of the importance of Big Creek in providing riparian habitat. Ms. Taylor returned for further statement reminding the Committee that the Property Owner's Board wants the Committee to support the desire of the community regarding the SilverTip project. She reminded the Committee of the petition signed by member of the community that was previously submitted regarding the signators' opposition to the project as proposed.

**Response:** Comment noted. The comment does not raise a significant environmental issue which requires a response.

### **Presentation to Fish Camp Advisory Council by the Fish Camp Property Owners Association Board regarding Revised Draft EIR for SilverTip Project, October 19, 2002**

**Statement 2RSA:** We feel that this is not the appropriate time to be considering far-reaching amendments to our existing Plan. The Advisory Council, who developed our current Plan, did so after months and months of study, review, deliberations, and public statement. Although we appreciate that the Plan does require modification, we are extremely wary of any changes to our current plan without adequate study. That being said, we call your attention to pages 1-2, Chapter 1 of the Revised Draft Environmental Impact Report, in which Section 1.3 addresses "Procedures." In the second paragraph, the second line says:

Although the amendments are minor in scope, modifications have been made to applicable Draft EIR content to incorporate those changes, including Sections 3.1, 3.2, 3.3, 3.6, 3.7, 3.9 and 3.12 of Chapter Three of the Draft EIR, and those modifications are being circulated along with the changes to Section 3.4.

We believe what this is saying is that the recirculated EIR assumes that the requested Fish Camp Specific Plan Amendments, proposed by the developer, will be made. It at least says that the Fish Camp Plan continues not to 'fit' this project, so the project wants you to make further changes beneficial to the developer.

The Board strongly disagrees with the characterization of the amendments as 'minor in scope.' The amendments, in fact, are substantive even at initial review, only leading to the clear implication that careful review, research, public input, and careful deliberation may reveal much more about them that is significant, and the distinct possibility that you may well decide that the amendments may not be in the 'best' interests of the residents and homeowners of Fish Camp.

**Response:** Comment noted. The Revised Draft EIR evaluates the impacts of the project that is proposed by the developer, as required by CEQA. See Response to Comment 20RH.

**Statement 2RSB:** Amendment #1 deals with the transportation. It asks you to add to the Transportation Section of page 3 additional roads with through access to the Fish Camp TPA to include Yosemite Mountain Ranch Road to the west and Jackson Road and White Chief Mountain Road to the east.

Every one of these road amendments has everything to do with accomplishing the developer's aim of having his "Destination Resort" in Fish Camp, but we must admit that this proposal contorts the facts about the Fish Camp Roads. These "roads" don't even meet any of the criteria that the developer has proposed in a later amendment, #8, Circulation Policies and Standards. They are neither State highways, arterial roads, collector roads, minor collector roads or local roads, yet the developer wants you to add them as additional roads with through access to Fish Camp. He failed to mention that these "access" roads are all National Forest Service's dirt roads, and are impassable for much of our rain and snow season, if not formally blocked off by the Forest Service. In the summer, driving on these roads is a dusty, unpleasant experience. It would appear that this amendment is also in error, as Mountain Ranch Road to the west is actually Chowchilla Mountain Road, called Summit Road in its first half-mile.

**Response:** See Responses to Comments 20RN and 20RO.

**Statement 2RSC:** Amendment #2 states:

Replace the Vegetation subsection on page 6 and the Rare and Endangered Plants subsection on page 7 with the following text and renumber existing Table 1 on page 8, "Excerpted from Climate and Plant Climate Map of Mariposa County, as Table 3."

The proposed list does not include 3 of the 4 plant species noted on Page 7 of the FCSP, including one that has been identified in Fish Camp, the Mountain Lady Slipper. The Board thinks that it would make no sense at all and be presumptuous to grant any such amendment without further study, which should, at a minimum, include input from the Sierra National Forest botanist and zoologist. Our current Plan includes paragraphs 3 and 4, which are historically important to consider, and we think should probably remain, though we defer to the ultimate conclusions reached by the Mariposa County Board of Supervisors after careful study of the motion.

**Response:** The intent of Amendment #2 is to update the listing of rare and endangered plants to reflect more recent survey and consultation information from that which is currently presented in the existing Specific Plan text. However, this update can also be accomplished as an augmentation to the existing listing of rare and endangered plants. Therefore in order to provide as complete a baseline as possible, Specific Plan Text Amendment #2 is hereby revised, so that rare and endangered plants listed as items 1, 2 and 4 on page 7 of the existing Specific Plan (i.e. *Allium yosemitense*, *Cypridpedium montanun*, and *Lewisa congdonii*) are included in Table 2 set forth on page 2-3 of the Revised Draft EIR. In addition, the second and third paragraphs set forth in the Vegetation Section on page 6 of the existing Specific Plan are hereby retained. With these modifications, the Vegetation Section of the Specific Plan would read as follows:

2. Revise the Vegetation subsection on page 6 and the Rare and Endangered Plants subsection on page 7 with the following text and renumber existing Table 1 on page 8, "Excerpted from Climate and Plant Climate Map of Mariposa County", as Table 3:

Vegetation/Wildlife Habitat: Habitat types in the Fish Camp TPA include woodlands, a large disturbed meadow, and riparian zones along Big Creek and its tributary drainages. The mixed conifer and hardwood forests are the habitat types of largest extent. All habitat types have been disturbed to some extent.

The Fish Camp TPA exhibits four terrestrial habitat types characteristic of mid-elevation of the Sierra Nevada. The largest natural habitat type, conifers such as white fir (*Abies concolor*), sugar pine (*Pinus lambertiana*), incense cedar (*Calocedrus decurrens*), and ponderosa pine (*Pinus ponderosa*) dominate, while black oak (*Quercus kelloggii*) contributes little to the tree canopy cover. The most common shrubs in the area include mountain whitethorn (*Ceanothus cordulatus*), greenleaf manzanita (*Arctostaphylos patula*), and Sierra gooseberry (*Ribes roezlii*). Scouler's willow (*Salix scoulerianna*) is scattered and brackenfern (*Pteridium aquilinum*) forms a dense understory on a portion of the northwestern Sierran Mixed Conifer area.

The seasonally wet meadows in the Fish Camp area have developed a distinct plant community which is associated with the constant high water table. Plants associated with these areas are commonly low growing grasses, forbs and sedges, and rushes. Plants common to this area include: Corn lily (*Veratrum californicum*), Campas (*Camassia quamash*), Swamp Onion (*Allium validum*), Sierra Start Tulip (*Calochortus nudus*), Sierra Rein-Orchids (*Habenaria leucostachys*), Knotweed (*Polygonum bistortoides*), and Marsh Marigold (*Caltha bioflora*). This plant community can be easily affected by vehicular and heavy foot traffic, livestock usage, and ground water withdrawal.

The banks of Big Creek support a sensitive and valuable riparian community. The transition between forest and riparian vegetation forms an ecotone that provides valuable wildlife habitat. Plants associated with this zone include: Black Cottonwood (*Populus trichocarpa*), Willows (*Salix* spp.), Water birch (*Betula occidentalis*), White Alder (*Alnus rhombifolia*), Mountain Alder (*Alnus tenuifolia*) and Maple (*Acer macrophyllum* and *glabrum*). Grasses, sedges, forbs and rushes described above are also common in this plant community. The riparian plant community is reliant on an abundance of water to maintain itself. Large water withdrawals may have a devastating effect on the vegetation associated with these areas.

Table 1 below identifies the wildlife species of concern that could potentially occur in the Fish Camp TPA. However, based on biological surveys, no special-status animal species have been identified in the Fish Camp TPA.

California Red-Legged Frog	<i>Rana aurora draytonii</i>
Mountain Yellow-Legged Frog	<i>Rana muscosa</i>
Foothill Yellow-Legged Frog	<i>Rana boylei</i>
Western Pond Turtle	<i>Clemmys marmorata</i>
Willow Flycatcher	<i>Empidonax traillii</i>
California Spotted Owl	<i>Strix occidentalis</i>
Great Gray Owl	<i>Strix nebulosa</i>
Goshawk	<i>Accipiter gentiles</i>
Marten	<i>Martes Americana</i>
Pacific Fisher	<i>Martes pennanti</i>
California Wolverine	<i>Gulo gulo luteus</i>

\*Based on assessment of habitats, review of NDDB, and conversations with DFG and USFS staff. Source: K & AES, Inc., Biological Resource Survey Results, April 1999.

Rare Plant Survey: Ten special-status plant species have been identified as potential candidates for occurrence in Fish Camp TPA. These species are described in Table 2. Of the ten species, 4 are federal “Species of Concern” (SC), 3 are listed under the California Endangered Species Act as “Rare” (CR), and 8 are considered by the California Native Plant Society as “List 1B” (plants rare and endangered in California and elsewhere).

Scientific Name	Common Name	Federal	State	CNPS
<i>Allium yosemitense</i>	Yosemite Onion	--	CR	1B
<i>Clarkia australis</i>	Small’s southern clarkia	--	--	1B
<i>Collomia rawsoniana</i>	Flaming Trumpet	SC	--	1B
<i>Cyripedium montanum</i>	Mountain Lady’s slipper	--	--	4
<i>Eriophyllum congdonii</i>	Congdon’s wooly sunflower	--	CR	1B
<i>Eriophyllum nubigenum</i>	Yosemite yellow sunflower	SC	--	1B
<i>Ivesia unguiculata</i>	Yosemite moustail	--	--	1B
<i>Lewisa congdonii</i>	Congdon’s lewisia	--	CR	1B
<i>Linanthus serrulatus</i>	Madera linanthus	SC	--	1B
<i>Lupinus cintrinus</i> var. <i>cintrinus</i>	Orangeflower lupine	SC	--	1B

Source: K&AES, Inc., Biological Resource Survey Results, April 1999.

See also Responses to Comments 20RJ and 20RDD.

**Statement 2RSD:** Amendment #3 proposes a new section entirely called Outdoor Recreation. At initial glance, there appears to us to be nothing particularly noxious about this section, but why do we need it? Would this type of section, an entirely ‘new section’ not be more appropriately considered in the course of the next 18 months you, as the Advisory Board, will be devoting to formally revising or replacing the current Specific Plan in the face of the County of Mariposa’s new General Plan? To add new sections to our Plan seems to us to require study and forethought and to not even be compatible with the brief time frame available in the course of public hearing about this truly gargantuan project, the SilverTip, which you are being asked to consider.

**Response:** Comment noted. See Response to Comment 20RCC. The comment does not raise a significant environmental issue that requires a response.

**Statement 2RSE:** Amendment #4, proposes to replace Government Organization and Services subsection 1 through 6 on page 9 of the Fish Camp Town Planning Area Specific Plan and Environmental Impact Report with the alterations and additions in the text; it then proceeds to reword several sections that you will no doubt need to look at during the 18-month process of revising our Town Plan. Do you want to accept the data presented without critical review? If you believe some or most of the data is correct, do you want to simply accept this data from what at best could be called the biased view of this developer without carefully verifying it?

Subsection 3, Fire Protection, contains inaccurate information. We approach this at the risk of offending some of our friends and neighbors, but we want to point out the pink elephant that has been sitting in the middle of the table for the last couple of years. The amendment states:

Fire Protection: Structural fire protection in Fish Camp is provided by the Mariposa County Fire Department from the fire station located at Highway 41 and Summit Road in Fish Camp. The station is staffed by three volunteers on an on-call basis. Existing equipment includes one Type-1 engine, one type-2 4 WD engine and one 4,000-gallon water tender. Average response time varies depending on availability of personnel. If volunteers in Fish Camp are available during an emergency call, response time is approximately two minutes. However, if Fish Camp volunteers are unavailable, engines are dispatched from the Cedar Valley fire station through a mutual aid agreement. In this case, the average response time is approximately 25 minutes.

Where and when did the data that 3 volunteers staffed the station come from? The reality is that we have not had a fully functional department for at least two years. We do not, in our Statements, imply any deficiency in any person who may currently be serving as a volunteer. In fact, we gratefully acknowledge their services. But for the last two years, it has been understaffed or non-existent. As far as response time, two minutes for Fish Camp and 25 minutes for Cedar Valley assumes that the volunteers just happen to be at the Fire House when the calls come in.

Response time must include the time it takes for volunteers to receive the call and arrive at the Fire House. Do you want your vote to approve data that may be inaccurate? Why not look at this matter and come up with honest, realistic wording that says what is, not what our fondest wishes are for fire protection in Fish Camp?

Further errors include the fact that fire-fighting equipment is not available at Fish Camp Fire House. It is sometimes relocated to other fire stations outside Mariposa County, as with our water tender for three months of the year's fire season.

Subsection 4 refers to Road Maintenance and Snow Removal. We wonder about the last sentence in the FCSP, which says:

"Non-county roads have obtained snow removal services through contracts with the County and local businessmen."

This item has been omitted from the Proposed Amendment. Why?

Subsection 5 of the FCSP is Health Care, which the developer has omitted. Why? The new Subsection 5, Solid Waste Disposal, seems to have a straightforward significance for the developer, but we believe that paragraph 3, where it notes that the Fish Camp Transfer Station is on land owned by the Forest Service, should also indicate that there have been frequent problems with finding an employee to be at the transfer station over recent years and that there may be a real possibility that the site will not indefinitely be at its current location, as indicated several times by Mr. Pickard.

Proposed Subsection 6 adds Public Utilities. It states that PG&E provides electricity to the Fish Camp area, as, by the way, did the applicant's original Draft EIR. Are you aware that there is no evidence that the developer has checked with PG&E to see if the single line of electrical supply will support this project?

**Response:** See Responses to Comments 54D, 70JJJ, 5RA, and 20RK.

**Statement 2RSF:** Amendment #5 refers to text about the water and we will leave that issue for other statementers, except to wonder why Sewage Disposal was omitted. Do you really want to omit it?

**Response:** No changes are proposed to the description of Sewage Disposal. It is not proposed to be omitted.

**Statement 2RSG:** Amendment #6 suggests adding a new section, "M", Noise, as well as a new section, "N", Agriculture and Mineral Resources. The Board believes that noise is one of the most contentious issues that will emerge about this project. Completely absent from the proposal is any reference to human noise, which will be a prominent ongoing part of this project. To amend the Specific Plan about noise before looking at the issue, and devoting a great deal of study to it in the course of the 18 months you will be revising the Town Plan, seems totally irresponsible.

**Response:** See Responses to Comments 20RP and 52S. The comment does not raise any other significant environmental issues which require a response.

**Statement 2RSH:** Although not as contentious an issue, the addition of proposed section N or any new material to the Town Plan at this point without careful study, would seem irresponsible.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2RSI:** Amendment #7 about Residential Density and Building Intensity (Table 5, page 2-8). This is a major, major change and needs a great deal of study. To rush this issue, without a great deal of consideration, seems to the Board to be foolhardy. We strongly advise against it.

**Response:** See Response to Comment 20RM.

**Statement 2RSI:** Amendment #8 adds another new section called "Circulation Policies and Standards." This amendment is the one that proposes a classification system whose definitions seem to exclude the Jackson Road, White Chief Mountain Road and Yosemite Mountain Ranch Road referred to in the first amendments.

The amendment proposes a Level of Service definition that has been adopted by Mariposa County. But is that definition the right one for Fish Camp? You may want to consider, in your future deliberation about revisions of the Specific Plan, a more restrictive definition for Fish Camp, which already contains the only full-service hotel in the County. We have all experienced congestion on Highway 41 at times and the dangers especially around change of shift as the hotel service employees rush to leave their work. This will only be exacerbated by more generous standards.

**Response:** See Responses to Comments 20RN and 20RO. The County has the ability to consider a more restrictive Level of Service standard for Fish Camp.

**Statement 2RSK:** Amendment #9 proposes a new section F, Fire Protection and Response Measures. The first sentence of the first paragraph is now and has been for at least two years, a misstatement, or, at a minimum, an erroneous statement.

If you accept the addition of the proposed mitigating policies and procedures, you may have essentially tied your hands as far as a more restrictive mitigation you may wish to propose for the protection of Fish Camp. This new section is a substantive one, which the Board recommends careful review and consideration of, before any change is made to the Specific Plan.

**Response:** See Responses to Comments 5RA and 20RK.

**Statement 2RSL:** Amendment #10 - Financing. The Board certainly agrees that a development should bear costs required for addition or upgrades to existing or new services, but we strongly recommend further study of this concept. Remember, the Tenaya Lodge was developed into

what most of us feel was quite inadequate monetary consideration in these areas. Very, very careful study should occur before addition of this section. In regard to the present project, the last information we have available was that the Mariposa Fire Department had made its recommendation based on the project being under a single ownership and the developer has clearly indicated that that may not be the case. As far as we know, the Department has not reviewed the project with knowledge that it may have separate ownership for the different parcels, which it has specifically declined to consolidate.

**Response:** See Responses to Comments 6A and 20RL.

**Statement 2RSM:** Paragraph 1 of this proposed amendment refers to:

"Exceptions may be made when new development generates significant public benefit (e.g. low income housing)".

The Board sees absolutely no public benefit that derives from this project. We are gravely concerned that it will destroy the real mountain character of Fish Camp, those qualities which attracted most of us here in the first place. We think the project fails to really fulfill any of the 6 original benefits to Fish Camp and Mariposa County noted in the original Draft EIR. Those were 1) Jobs; 2) Affordable housing; 3) Open Space and Trails; 4) Wetlands preservation; 5) Economic Benefits; and, 6) Fire/Emergency Response Improvements. It may well end up being a white elephant for the County to deal with. Historical occupancy of units in Mariposa County that contribute to the transient occupancy rate are in the 50+/-% as a year-round basis. The Board seriously questions whether we need to add to those rental units.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Statement 2RSN:** Amendment #11 proposes to add a bibliography to the Specific Plan. It is our view that this bibliography may contain inaccuracies, and we feel that it does not belong in our present Specific Plan. The bibliography for the Specific Plan should emerge over the course of the 18 or so months projected as the time needed to produce a proper revision of the Town Plan.

**Response:** Comment noted. See Response to Comment 20RQ.

**Statement 2RSO:** In summary, the Board of the Property Owners Association considers these proposed amendments premature, poorly drafted as far as Fish Camp is concerned, inaccurate in a number of places, and lacking in appreciation for the Town's history, traditions and standards. Our current Plan notes that Fish Camp's "life style has led to community values that emphasize the importance of maintaining the natural aesthetic qualities of the area." We are concerned that the proposed amendments may be inconsistent with our community values.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

## Statements From Block D Property Owners

**Statement 3RSA:** Barbara Taylor: Under Project Description, change in the Specific Plan proposed by PacificUS, please go to 2-6, top of page, #5, Replace the Water subsection: (3) Description of Yosemite Resort Properties Water System. Some of this information needs clarifying or correcting. You will note the List of Subdivision D Owners (Attachment #1 to Statement 3R). There are 26 cabins in Subdivision D. Of the 26 cabins, there are 11 cabins in full use. Of the 26 cabins, there are two vacation homes. Beyond this there are 4 buildable lots. Others on the system include the Keller log cabin (1 full time rental cabin), a US Post Office (1 employee), the Chevron Gas Station (which has been given a full bill of health and can operate as such) and the Winterberg parcel that needs to be changed to parcel(s), because both parcels are on the system. At least three cabin hook-ups, a kitchen and bath house are resting on parcel #3 (3 acres) plus some trailer water hook-ups. This lot carries a multi-family designation. On Parcel # 1 (2.37 acres) several water hook-ups to trailers are connected by hoses, and up to 9 trailers or RV's can be used during specified times in the summer. A toilet and wash basin toilet house is also connected. Up to 50 people can use these facilities during specified time periods on this parcel (single family residential) in the summer.

I mention the corrections above in order that they be part of the record and that they be properly factored into the water calculations provided in the Final Draft EIR for adequate water quantity to our system. Referring to 3-17, the graph on Calculated Water Demand shows Existing Property Demand for Subdivision D and others on the system to be only 7 gpm for an average day, maximum month demand and only 9 gpm for maximum day demand. In light of the water user list attached, this calculation needs to be corrected considering all the water users and their potential use.

**Response:** See Response to Comment 17RC.

**Statement 3RSB:** The filter mentioned in the water description appears to be wrong. This "G24" Guardian filter is described in the BSK Report, May 11, 1990 and found in the Appendices Volume II, of the original Draft EIR. This filter no longer exists.

**Response:** Comment noted. See Response to Comment 1RSK.

**Statement 3RSC:** On 3-8 of heading, Potential Recharge, notice top paragraph: "Additional recharge is possible from Big Creek streamflow. Considering the existing water use in this watershed and the proposed use for the project, the potential recharge greatly exceeds the projected water use."

On 3-9, Surface Water Flow, 2<sup>nd</sup> paragraph it says: "The U.S. Forest Service measures Big Creek streamflow at a site upstream of Fish Camp at the Big Sandy Campground, except during the winter."

Much reference is made throughout this document on surface flow, citing the U.S. Forest Service studies, Table of Contents, Surface Water and Hydrogeologic Conditions, pg. 2. I submit to you that this study is flawed because of the very fact that Big Sandy Campground from which this

study was measured is some 2 miles north of the Big Creek Diversion. Attachment #2 (to Statement 3R) is a letter from the Madera Irrigation District (January 16, 1991) indicating that January, February, March, May, June and up to July 15, November and December, the District can divert up to 50 cubic feet per second of water into Lewis Creek. The District has rights of 20 cfs for April.

A proper surface flow measuring Big Creek is requested below the Diversion and below Green Meadow School and before Big Creek reaches the Highway 41 bridge to correctly measure the flow, considering that the Green Meadow School and Tenaya Lodge draw water from wells in the immediate vicinity.

**Response:** See Response to Comment 20RF.

**Statement 3RSD:** In addition, I bring to your attention, the very real situation that the 2 springs listed as water supply sources to Subdivision D are now dry or almost dry. Pictures taken on October 15, 2002 (see last page of this Chapter) indicate that there is no water coming out of the Upper Spring (picture indicates no water in flow valve) and little or no water flowing from the Lower Spring (these pictures indicate that the redwood box has fallen in and no water is circulating to show water coming or going). Our only source of water to date is Well # 4 that produces a scant 5 gpm. Logically, Subdivision D's water supply is on the brink of water failure and is only being controlled by keeping the pump on 24 hours a day from Well # 4 to our 85,000 gallon tank. You are being requested today to accept a description of Subdivision D's water sources that do not reflect the condition of this water source, yet these sources are being used to calculate into the equation of water quantity for their development. The generous Residential Density and Building Intensity Standards amendment #7 by the developers will further deplete our already failing system.

**Response:** See Responses to Comments 11RA, 17RC, 17RF, 17RG, 17RH and 17RM. Also see Response to Comment 20RM.

**Statement 3RSE:** Lastly, I bring to your attention 3-36 (3-43), Impact Evaluation Criteria states that under CEQA Guidelines, the proposed project would be considered to have a significant adverse impact on water supply, water quality or flooding potential if it would (top of page 3-37): "Have insufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed."

- Subdivision D was mandated to have off-site water by Mariposa County in order to have the subdivision approved.
- Subdivision D cannot locate a well or other water source within their subdivision due to the closeness of leach lines.
- Subdivision D has actively participated in the construction and operation of the Yosemite Resort Properties Water System. Participation has been by documentable cash "contributions" for the construction of the water tank and other system components. Participation has also been by documentable in-kind contributions of labor and materials.
- Subdivision D has actively participated in the operation of the Yosemite Resort Properties Water System as nothing less than a "mutual water system."

- The former owners did not have the right, or as members of the mutual water system, without the approval of Subdivision D, to sell the water system.
- Subdivision D has established a "prescriptive right" and Mariposa County mandate to (a) Well # 4, located in recently sold land and (b) the watershed necessary to ensure the long term water quality and quantity of Well #4.

**Response:** See Responses to Comments 2A, 44A, 45D, 69F, 11RA, 17RC, and 17RF. The Draft EIR and Revised Draft EIR are written to evaluate the impacts of the proposed SilverTip Resort Village project, not Subdivision D.

### **Petition from the Community of Fish Camp**

**Statement 4R:** The SilverTip Draft Environmental Impact Report proposes a zoning amendment to the Fish Camp Town Planning Area Specific Plan. This zoning amendment includes rezoning 9+/- acres of Resort Commercial and 38 acres of Single-Family Residential-One-Acre zoning to 35.9 acres Resort Commercial, 8 acres Single-Family Residential-One-Acre, and 2.5 +/- acres Single Family Residential, 2.5 acre minimum. The SilverTip project is inconsistent with the Fish Camp Town Planning Area Specific Plan. As proposed, the SilverTip project will have irreversible, negative impacts on adjacent properties. As proposed, the SilverTip project will have irreversible, negative impacts on the Fish Camp community. I am opposed to amending the Fish Camp Town Planning Area Specific Plan for the proposed SilverTip document.

**Response:** Comment noted. The petition does not raise specific environmental issues that require a response.

### **Planning Commission Meeting, Public Hearing For Revised Draft EIR, SilverTip Resort Village Project, Summary of CEQA-Related Comments, November 1, 2002** [Summary notes provided by Mariposa County staff and Ronald Coleman]

**Kirk Helland:** Hydrological age testing of SilverTip well water would determine if recharge area data is coming from the designated locations. Need to know if water is "ancient," or is subject to recharge. Recharge data is spurious. Rate of recharge is not substantiated. Described USGS groundwater study in Wawona. Specific Plan changes appear to only benefit the SilverTip project. He submitted a petition with 90 signatures in opposition to the project (Statement 4R).

**Response:** Comment noted. The petition is referenced above. See Response to Comment 22RF.

**Richard Kunstman:** He was concerned about the effects of temporary noise impacts, including delivery trucks, intoxicated patrons, etc., and noise analysis CNEL methodology to review periodic peak noise. Cited Berkeley Keep Jets Over The Bay Committee vs. Board of Port Commissioners Appellate Court case. Stated that the case applied to the current proposal. Was also concerned about the project's economic effect on other businesses in Fish Camp and Oakhurst. Cited Wal-Mart Superior Court case in Placer County. The Draft EIR is deficient without an analysis of other local businesses going out of business.

**Response:** See Responses to Comments 16B, 59T, 59W, 46E, and 52M through 52Q.

**Richard Ryan:** Water rights to the PacificUS site are owned by YACSD. How can there be recharge for water supply purposes, but no percolation to groundwater from the leachfields. SilverTip effluent recharges YACSD wells and will degrade water quality. Submitted written comments (see Letter 23R).

**Response:** See Responses to Comments 22RF, 23RA, and 23RB.

**Pam Ferris:** How can developers rewrite the Fish Camp Specific Plan without the consent of other property owners? Wants them to wait until community can consider Plan update.

**Response:** See Response to Comment 59D.

**Gene Mickel, Chamber of Commerce Representative:** The Chamber of Commerce supports the project. The Revised Draft EIR is thorough and more than adequate.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Jan Mennig:** The Revised Draft EIR supports approval of the project.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Roger E. Biery, Mariposa County Economic Development Corporation:** The EDC supports the project. EIR should contain an economic study on what happens to County if project is not approved.

**Response:** Comment noted. The purpose of an environmental impact report is to evaluate the impacts of a proposed project if it is approved, not if it is not approved.

**Bill Winterburg, Jr.:** He owns property adjacent to project site. The SilverTip wells and sewer system will be attributes to the Fish Camp Community.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Greg Baxter:** He is a cabin owner in Fish Camp. His cabin is across Highway 41 at an elevation where he views the pond on the south side of the road, Big Creek and the SilverTip site, including the meadow. He believes the SilverTip proposal is a good environmental plan, which allows for ample water, wastewater facilities, and fire protection that may go beyond facilitating just the SilverTip site.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.

**Barbara Taylor:** Handed in comments (see Letter 19R). Stated that their attorney, Gary Sawyers, is writing on water-related matters. She objects to Specific Plan amendments. Project not consistent with Objective #1 of Town Specific Plan. Also inconsistent with Objective #10.

The Tenaya Lodge and Apple Tree Inn are zoned Resort Commercial. EIR dismisses noise impacts. Noise for the parking area and other project elements is not addressed. She tried to identify the number of parking spaces the project will have.

There are no benefits to the community.

What about odor impacts from idling buses and impacts in general from adding buses in the community?

Following the close of the public hearing, commenter handed in five photos of Upper and Lower Springs located on U.S. Forest Service land. Pictures are presented at the end of this chapter.

**Response:** Adding buses to the community is not part of the proposed project; the EIR only requires that the project reserve an area for a bus turnout if transit service should be established at some future time. Mitigation Measure #50A addresses idling buses. Establishment of such service would be subject to additional review under CEQA.

See Responses to Comments 59S, 59T, 59U, 59V, 59W, 46E, and 52M through 52Q with regard to noise.

The Project Description in the Draft EIR, Table 2-1 (page 2-3) indicates that the project includes 359 parking spaces. Section 3.1 of the Draft EIR addresses lack of consistency of the proposed project with the Specific Plan. The Revised Draft EIR includes amendments to the Specific Plan which are proposed as part of the SilverTip Resort Village project.

**Richard Ryan:** Stated that changes in Town Specific Plan are his greatest objection. The SilverTip proposal would be better in another location.

**Response:** Comment noted. The comment does not raise a significant environmental issue that requires a response.



**Upper Spring Valve**

**Lower Spring**



**Lower Spring**



**Upper Spring Valve**



**Lower Spring**