MARIPOSA COUNTY ORDINANCE NO. 913

AN ORDINANCE AMENDING THE MARIPOSA COUNTY ENVIRONMENTAL REVIEW POLICIES AND PROCEDURES

WHEREAS, the Board of Supervisors initiated a comprehensive Permit Streamlining Program, including the public review and hearing process to amend the Mariposa County Code and other county policy documents adopted by ordinance; and

WHEREAS, these include amendments to the Mariposa County Environmental Review Policies and Procedures; and

WHEREAS, the Planning Commission and Board of Supervisors have held duly noticed public hearings on the amendments in accordance with State Law and County Code, and have considered all input, written and verbal; and

WHEREAS, the Planning Commission and Board of Supervisors made many modifications to the amendments in response to concerns expressed through the public process;

NOW THEREFORE, The Board of Supervisors of Mariposa County, a political subdivision of the State of California, does ordain as follows:

SECTION I: The Board of Supervisors makes the following findings:

1. These amendments to the Mariposa County Environmental Review Policies and Procedures are exempt from the provisions of the California Environmental Quality Act (CEQA) in accordance with Section 15061 of the CEQA Guidelines because the amendments are covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. There is no possibility that the amendments to the Mariposa County Environmental Review Policies and Procedures may have a significant effect on the environment.

2. The amendments are in the general public interest, and will not have a significant adverse effect on the general public health, safety, peace and welfare. The amendments do not make any changes in current practices that would result in any impact on the environment.

3. The amendments clarify the existing Environmental Review Policies and Procedures document and eliminate conflicting and duplicative information. The amendments clarify roles and responsibilities of County staff; remove technical requirements for public notice, hearings, findings, appeals, and other matters from the Environmental Review Policies and Procedures.
document (these requirements are located in Title 17 of County Code); and remove references to committees and procedures which no longer exist.

4. The amendments promote fairness in implementation of environmental review requirements and procedures by clarifying conflicting language of the Environmental Review Policies and Procedures document with that of other text in County Code.

5. The amendments are desirable for the purpose of improving the Mariposa County General Plan with respect to providing a long term guide for County development and a short term basis for day-to-day decision making. The amendments clarify and consolidate technical requirements and procedures for environmental review to aid in the day-to-day operations and processing of applications.

6. The amendments conform with the requirements of State law and county policy and are consistent with other guiding policies, goals, policies, and standards of the Mariposa County General Plan. One purpose of the amendments is to provide consistency with State law and County ordinances and policies. Procedures contained within the document which are inconsistent with State law are removed. This action is supported by the General Plan Governing Policy Section 2.202. This section establishes policy regarding the administration of the Mariposa County General Plan as follows: "To provide a practical and legally adequate framework to include... implementation programs and measures which can effectively guide the development and growth of Mariposa, yet reserve adequate flexibility in the day-to-day decision process to be responsive to changing needs and circumstances."

 SECTION II: The Mariposa County Environmental Review Policies and Procedures is hereby amended in accordance with "Exhibit A" (Amendments are noted as follows: Additions with double underline and italics, and deletions with strikethrough).

 SECTION III: This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

 SECTION IV: PASSED AND ADOPTED by the Board of Supervisors of Mariposa County on this 7th day of January, 1997 by the following vote:

AYES: Reilly, Balmain, Stewart, and Pickard
NOES: None
ABSTAINED: None
EXCUSED: Parker
Ordinance No. 913

ROBERT C. STEWART, Chairman
Mariposa County Board of Supervisors

ATTEST:

MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

JEFFREY G. GREEN, County Counsel
SECTION 1.000
APPLICATION AND GENERAL ADMINISTRATION

1.100 REFERENCE

These policies and procedures are written for the purpose of implementing the requirement of the California Environmental Quality Act (CEQA) as contained in Division 13, Section 21000 et seq. of the Public Resources Code and the CEQA Guidelines as contained in Time 14, Division 6, Chapter 3, Section 15000 et seq. of the California Administrative Code.

1.200 PURPOSE

The following policies and procedures are set forth for the purpose of implementing CEQA and the CEQA Guidelines within the County of Mariposa. Nothing contained within these policies and procedures is intended to supersede or otherwise avoid the intent or express letter of applicable State law. When a stated policy or procedure is found to be inconsistent with a mandatory provision of CEQA or the CEQA Guidelines, State law and the Administrative Code shall govern. These policies and procedures therefore are intended to supplement the provisions of State law and the Administrative Code and provide the necessary administrative rules to carry out the intent of the law within Mariposa County. Nothing contained within the following policies and procedures is intended to limit the lead agency from establishing alternative procedures for processing a project's environmental review where either specific policies and procedures are not set forth herein or where an alternative procedure will expedite review consistent with State law and the purpose of CEQA.

1.300 DEFINITION OF TERMS AND REFERENCE

All terms and phrases utilized herein shall be defined in accordance with CEQA and such administrative guidelines established by the Resources Agency of the State of California pursuant to the requirements of CEQA. In all cases such terms or phrases not specifically defined as provided above will be subject to such definitions as applicable in Mariposa County Code or policy.

1.400 INTERPRETATION

All questions regarding the specific application or interpretation of procedures, standards and policies set forth herein Shall be determined by the lead agency as defined in Section 2.000 of these policies and procedures.
1.500 SUPPLEMENTAL POLICIES

In the event that such policies, standards and procedures as described herein require supplemental policies for application to an agency or board not identified herein, or any other board, commission, or public official operating under the authority of the Mariposa County Board of Supervisors, such supplemental policies, procedures and standards may be adopted by the affected agency for specific application to that agency and shall not affect these policies, procedures and standards as they apply to the County of Mariposa.

1.600 ADMINISTRATIVE APPEAL PROVISIONS

Appeal procedures shall be the same as those in Section 17.136 of County Code and the adopted County Appeals Procedures, as amended from time to time.

In the event that a determination is made, subject to the provisions of CEQA, CEQA Guidelines and the policies, procedures and standards contained herein by a board, commission or public official acting under the authority of the County of Mariposa (a political subdivision of the State of California) as set forth in Section 2.100, then the Mariposa County Board of Supervisors shall be the Administrative Appeal Review Board. Wherein the Mariposa County Board of Supervisors is responsible for determinations under the provisions ofCEQA, as set forth in Section 2.100, there shall be no administrative appeal provisions.

1.610 Administrative Appeals Generally

All decisions or determinations made pursuant to these policies and procedures, which are subject to appeal under Section 1.600, may be appealed to the Appeal Review Board provided that such appeal is filed in accordance with Mariposa County's adopted appeal procedures. Public notification of an appeal hearing shall be conducted in accordance with established County policy;

1.700 PUBLIC NOTIFICATION STANDARDS

Notification standards shall be the same as those in Section 17.132.020 and 17.132.030 of County Code.

This section is intended to supplement the provisions of Section 3.000 of this document and established Mariposa County policy for purposes of public notification.
1.710 Affected Property Owner Notification

Affected property owner shall be notified of environmental review actions and/or pending actions in accordance with the following standards:

A. Affected property owner shall mean:
   1. Adjacent property owners within 600 feet of the boundaries of a project site.
   2. All property owners adjacent to, or utilizing as primary access, any road, street or easement of record (as described on a recorded subdivision map) not included in the Mariposa County Road System or State/Federal highway system where such access is affected by the project.
   3. Such other persons and property owners where it is determined by the lead agency that such persons or property owners could be affected due to the unique or unusual characteristics of the project under review.

B. Affected property owners, as defined in Section 1.710 A above, shall be notified of a pending environmental review action a minimum of 15 days prior to the scheduled date of the final environmental review action by direct first class mailing. Other means of notification, as described in Nos. 1 and 2 below, may be used if the Lead Agency finds that reasonable public notification will be provided or if more than one thousand notices are to be prepared. Any combination of notification methods may be used to achieve reasonable public notice.

1. Publication at least one by the Lead Agency in a newspaper of general circulation in the area affected by the proposed project.

2. Posting of notices by the Lead Agency on and off site in the area where the project is to be posted.

C. All public notification as outlined in Section 1.710 (B.) above, shall include the following information:
1. The project or permit application number and the name of the project applicant or proponent.

2. A general description of the project and its location.

3. The contemplated action with respect to the environmental determination.

4. The starting date of the public review period.

5. The location where initial studies, staff reports and other relevant information on the project may be reviewed.

6. Options an affected property owner may have with respect to the proposed project including comments and public hearing requests.

1.800 PUBLIC HEARINGS

Public hearing procedures shall be the same as those in Section 17.132 of County Code.

A. A public hearing may be requested, on a pending environmental review determination by an affected property owner, or other interested party, or on motion of the Lead Agency.

B. A request for a public hearing shall be made in writing and must be filed with the Lead Agency prior to the close of the public review period as shown on the public review notice required under Section 1.710B.

G. Any affected property owner, or other interested party, who requests a public hearing shall be responsible for a minimum fee to be specified in accordance with Section 1.900 of this document. The project proponent shall be responsible for such additional costs of the public hearing which is in excess of the fee provided by the party which requests the public hearing. Where the Lead Agency requires a public hearing, the project proponent shall be responsible for the entire public hearing fee as established in accordance with Section 1.900.

D. Such public hearing shall be conducted in accordance with established Lead Agency policy. If a Lead Agency does not have an established policy for the conduct of public hearings, then the policy of the Board of Supervisors shall be used. Notification of the public hearing shall be provided to all affected property owners, the party who requests the public hearings if not an
affected property owner, and the project proponent. The public hearing shall also be advertised in a newspaper of general circulation. Such public notification and advertisement shall be done at least 10 days prior to the hearing date and shall advise of the date, time, place and matter to be heard. The public hearing may be continued from time to time at the pleasure of the Lead Agency.

1.900 ENVIRONMENTAL REVIEW COSTS AND FEES

A. The lead agency may establish reasonable fees for the review of environmental documents. Such fees may include the costs of legal notices and affected property owner notifications, the costs of preparing and reviewing initial studies, notices of preparation, notices of determination, environmental impact reports and other environmental review documents, the cost of conducting public hearings or appeal hearings before the lead agency or other designated Board, Commission or Public official charged with the responsibility for reviewing and acting on environmental documents on behalf of the lead agency.

B. Fee amounts and administrative procedures for collecting and depositing fees, if required, shall be established by separate resolution, adopted by the Board of supervisors, which shall become part of these CEQA policies and procedures.

2.200 ENVIRONMENTAL DETERMINATION RECOMMENDATIONS

A. Planning Commission

Where the matter before the Planning Commission requires a final environmental determination from the Board of Supervisors, the Planning Commission may provide recommendations on the type of environmental review where appropriate or when requested by the Board of Supervisors.

B. Environmental Review Technical Advisory Committee (ER TAC)

Any matter under consideration by a Lead Agency may be referred to ER TAC for review, comments, and/or recommendations on the appropriate type of environmental review. Meetings of the ER TAC shall be open and public. (Sections C., D., and E. to be re-numbered as Sections B., C., and D.)

2.300 RESPONSIBILITIES OF PLANNING STAFF

The responsibilities of the Mariposa County Planning Department Staff in administering these policies and procedures shall be as follows

1. Providing information and application forms to the general public.

2. Preparing Initial Studies.
3. Preparing and transmitting public notification as appropriate.
4. Setting public hearing dates as needed.
5. Preparing Negative Declarations, Notices of Determination, Notices of Completion and Notices of Preparation as necessary.
6. Reviewing and commenting on Draft EIR's.
7. Overseeing the preparation of Final EIR's.
8. Preparing EIR's only when directed to do so by the Planning Commission or the Board of Supervisors.
9. Notifying project proponents or applicants of pending hearings and/or actions on their application.
10. Attending meetings and or hearings before the Board of Supervisors, and Planning Commission, and ER TAC.
12. Providing general technical assistance to other County Agencies concerning CEQA requirements.
13. Determining whether or not projects are subject to the Department of Fish and Game fees in accordance with the procedures established in this title.

2.400 ENVIRONMENTAL REVIEW TIME LIMITATIONS

A. Time Frames

Article 8 of the CEQA Guidelines, commencing with Section 15100, outlines the mandatory time frames within which the various steps of the CEQA review process must be completed by the Lead Agency. The purpose of these time frames are to provide adequate public review and to ensure that the environmental review process does not cause undue delays in the consideration of projects.

The mandatory time frames contained in CEQA begin when the Lead Agency determines that the project application is complete. An application for a project or permit shall not be considered complete for processing, pursuant to the time limits in Article 8 of the CEQA Guidelines, until such time as a Negative Declaration has been adopted or Final EIR certified by the Lead Agency and until all other information required by Lead Agency policy has been provided by the applicant. All applicants and/or project proponents shall be notified of the completeness
of their application within 30 days of submittal of the application or the application is automatically considered complete on the 30th day Section 15101, CEQA Guidelines).

2.410 Criteria for Determining Application Completeness

The following criteria shall be used to determine the completeness of an application to be considered by the Planning Commission and/or Board of Supervisors:

1. Minor Land Divisions
   a. Application Form.
   b. Preliminary Environmental Assessment Form.
   c. Appropriate Fees.
   d. ± 10 copies of the Tentative Parcel Map.
   e. Verification of Taxes Paid.
   f. Appropriate Deeds, to establish legality of parcel.
   g. Preliminary Title Report or Parcel Map Guarantee.
   h. Reports from all affected agencies as determined by the Lead Agency.
   i. Initial Study.
   j. Negative Declaration or Certified EIR.

k. Certified property owners list in accordance with affected property owner provisions of Section 1.710A and described in Appendix "T".

2. Major Land Divisions
   a. Application Form.
   b. Preliminary Environmental Assessment Form.
   c. Appropriate Fees.
   d. ± 10 copies of the Tentative Parcel Map.
   e. Verification of Taxes Paid.
   f. Appropriate Deeds, to establish legality of parcel.
g. Preliminary Title Report or Parcel Map Guarantee.

h. Reports from all affected agencies as determined by the Lead Agency.

i. Initial Study.

j. Negative Declaration or Certified EIR.

k. Certified property owners list in accordance with affected property owner provisions of Section 1.710A and described in Appendix "I".

3. Conditional Use Permits and Surface Mining Permits

a. Application Form.

b. Preliminary Environmental Assessment Form.

c. Appropriate Fees

d. 45 copies of the site plan.

e. A letter, or other written documentation, giving the specifics of the project (including reclamation plan were appropriate).

f. Initial Study.

g. Negative Declaration or Certified EIR.

h. Certified property owner list in accordance with affected property owner provision of Section 1.710-A and described in Appendix "T".

4. General Plan Amendments

a. Application Form.

b. Preliminary Environmental Assessment Form.

c. Appropriate Fees.

d. 20 copies of USGS 1:24,000 scale map the site plan showing the area of proposed amendment.

e. Initial Study.

f. Negative Declaration or Certified EIR.

g. Certified property owner list in accordance with affected property owner provisions of Section 1.710-A and Appendix "I".
5. Zoning Amendments
   a. Application Form.
   b. Appropriate Fees.
   c. Environmental Assessment Form.
   d. 10 copies of map or site plan showing location of the parcel.
   e. Deed, to establish legality of parcel.
   f. Verification of Taxes Paid

   g. Initial Study.

   h. Negative Declaration or Certified EIR.

   i-g. Certified property owners list in accordance with affected property owner provisions of Section 1.710A and described in Appendix "or."

6. Categorically Exempt Projects which are deemed to have potential for significant impacts
   a. Application Form.
   b. Appropriate Fees.
   c. Deed, to establish legality of parcel.
   d. Any written documentation as required by the Planning Department.
   e. Negative Declaration or Certified EIR.

CEQA REVIEW PROCEDURES (2.500)

2.510 Board of Supervisors

A. The Mariposa County Board of Supervisors shall be responsible for the final environmental determinations on those actions listed as requiring CEQA review. The Mariposa County Planning Department shall be responsible for administering these policies and procedures for those CEQA actions having the Board of Supervisors as Lead Agency. The Board of Supervisors shall be responsible for determining the applicability of CEQA and the appropriateness of Categorical exemptions. Public review and public hearings on CEQA actions shall be conducted by the Board of Supervisors.
In accordance with Section 1.600, the Board of Supervisors shall be responsible for hearing appeals of environmental determinations made by other lead agencies and public officials acting under the authority of the County of Mariposa, including, but not limited to, the Planning Commission, Road Department, Community Services Department, Building Office, Environmental Health Office, Special Districts and the Parks and Facilities Department.

The Board of Supervisors may refer pending Resolutions and Ordinances to the Environmental Review Officer for recommendations on the potential for significant environmental effects and the applicability of CEQA. In all cases however, the final determinations and responsibility for compliance with CEQA shall remain with the Board of Supervisors.

2.520 Planning Commission

A. The Mariposa County Planning Commission shall be responsible for the final environmental determination on those actions listed below as requiring CEQA review. The Mariposa County Planning Department shall be responsible for administering these procedures for those CEQA actions having the Planning Commission as Lead Agency.

The Planning Commission shall be responsible for determining the applicability of CEQA, the appropriateness of categorical exemptions, and for hearing appeals of environmental determinations made by the Planning Department Staff. All determinations of the Planning Commission may be appealed to the Appeal Review Board in accordance with Section 1.610 of these procedures. Public review and public hearings on CEQA actions shall be conducted by the Planning Commission.

B. The following actions of the Planning Commission are subject to the requirements of CEQA:

1. Tentative Parcel Maps.
2. Tentative Subdivision Maps.
3. Conditional Use Permits
4. Surface Mining Permits.

2.530 Planning Department

A. The Mariposa County Planning Director shall be responsible for administering these procedures for those actions within the Planning Department that require CEQA review. The Planning Director shall be responsible for determining the applicability of CEQA, the appropriateness of categorical exemptions and for final environmental determinations within the Planning Department. The Planning Director shall be
responsible for conducting public review on CEQA actions with the Planning Director being responsible for conducting public hearing on CEQA actions.

All determination of the Planning Department Staff may be appealed to the Planning Commission in accordance with the County's adopted appeals procedures.

B. It does not appear that the Planning Department carries out or issues permits for any action which automatically requires CEQA review.

(Sections C. and D. to be re-numbered as Sections B. and C.)

2.540 Road Department

A. The Mariposa County Road Commissioner shall be responsible for administering these policies and procedures within the Mariposa County Road Department. The Mariposa County Planning Department may provide technical assistance on compliance with CEQA and these policies and procedures if so directed by the Planning Commission or the Board of Supervisors. The Mariposa County Road Commissioner shall act as the Lead Agency on those actions which require CEQA review and shall make the final environmental determination, appealable to the Board of Supervisors in accordance with Section 1.610 of these procedures.

The Mariposa County Road Commissioner shall be responsible for determining the applicability of CEQA and the appropriateness of categorical exemptions within the Road Department.

Public review and public hearings on CEQA actions within the Road Department shall be conducted by the Mariposa County Road Commissioner. The Road Commissioner may refer Initial Studies and/or EIR's to the Planning Department Environmental Review Technical Advisory Committee for review, comment, and recommendations on the environmental documents prior to public review and the final environmental determination.

2.550 Mariposa County Environmental Health Office

A. The Mariposa County Director of Community Services Health, or his designee, shall be responsible for administering these policies and procedures for CEQA actions within the Mariposa County Environmental Health Office. The Mariposa County Planning Department may provide technical assistance on compliance with CEQA and these policies and procedures if so directed by the Planning Commission and the Board of Supervisors. The Director of Community Services, as used in this section, shall also include his
designee or representative.

The Director of Health Community Services shall be responsible for determining the applicability of CEQA, the appropriateness of categorical exemptions, and for making final environmental determinations within the Health Department. The Director of Health Community Services may refer those projects that are subject to environmental review to the Planning Department BR-TAG for review, comments, and recommendations on the appropriate type of environmental review. The Director of Health Community Services may at any time determine that a particular project or permit, even though identified as being ministerial or categorically exempt has the potential to cause significant environmental effects and therefore requires environmental review. Public review and/or public hearings on CEQA actions shall be conducted by the Director of Health Community Services. All determinations of the Director of Health Community Services may be appealed to the Appeal Review Board in accordance with Section 1.610 of these procedures.

2.560 Building Office

A. The Mariposa County Chief Building Official, or his designee, shall be responsible for administering these policies and procedures within the Mariposa County Building Office. The Mariposa County Planning Department may provide technical assistance on compliance with CEQA and these policies and procedures if so directed by the Planning Commission or the Board of Supervisors. Should an Environmental Impact Report (EIR) be required for a private project or permit, the project proponent shall be responsible for the preparation and completion of the EIR. Chief Building Official; as used in this section, shall also include his designee or representative.

The Chief Building Official shall be responsible for determining the applicability of CEQA, the appropriateness of categorical exemptions, and for making final environmental determinations. The Chief Building Official may refer Initial Studies and or EIR's to the Planning Department Environmental Review Technical Advisory Committee for review, comments, and recommendations on the environmental documents.

2.580 Special Districts

A. The Mariposa County Special Districts Manager shall be responsible for administering these CEQA procedures for those actions within the County Special Districts which
are subject to CEQA. The Mariposa County Planning Department may provide technical assistance on compliance with CEQA and these policies and procedures if so directed by the Planning Commission or the Board of Supervisors.

The Special Districts Manager shall be responsible for determining the applicability of CEQA, the appropriateness of categorical exemptions and for making final environmental determinations within the County Special Districts. The Special Districts Manager may refer environmental documents to the Planning Department Environmental Review Technical Advisory Committee for review, comments and recommendations prior to making a final environmental determination.

3.310 Public Notice

Upon Completion, review and acceptance of an Initial Study, including the mandatory determinations as contained in Section B of the Initial Study form and written agreement from the project applicant to the mitigation measures contained in the Initial Study, a Lead Agency may approve a Negative Declaration in accordance with the following procedures:

A. Such negative declaration shall be tentatively adopted and accepted for review with public notice for a reasonable period of time sufficient to provide members of the public with an opportunity to respond before the negative declaration is adopted. Final adoption shall not take place until public notification procedures have been followed and the review period has expired.

B. Public notification shall take place in accordance with Section 1.700 of these procedures and established County policy.

C. In the event a formal request for public hearing is received, from a person or persons with a legal right to a hearing, in accordance with Section 1.800 of these procedures, a negative declaration shall not be further acted on until such time as a formal public hearing is held on the matter by the lead agency.

D. Where a formal public hearing is held on the approval of a negative declaration, the lead agency:

1. May approve a negative declaration, revised initial study, conditional negative declaration, may revise or amend the initial study, or may require an environmental impact report based upon information obtained from the public hearing proceedings or other information provided for the proceedings record.
2. Shall maintain a record of the public hearing proceedings for the purpose of review or appeal.

E. Actions of approving a negative declaration on a project shall be considered final following either the closing of the public review process without a public hearing request or upon the holding of a formal public hearing unless such action is appealed.

F. In the event such actions are subject to appealable review proceedings, no action of the lead agency shall be considered final until such times as appeal review periods have expired or appeal proceedings, if initiated, have been completed.

G. Nothing in these provisions shall preclude the lead agency from requiring a public hearing on a negative declaration without formal written request.

3.440 Draft EIR Review

A. Upon submission of a draft EIR to the lead agency by an applicant or a consultant, the lead agency shall review said draft for adequacy prior to acceptance for public review. Any document which is not deemed adequate for public review by the lead agency shall be returned to the applicant or consultant for revision. When the lead agency determines that a draft EIR is adequate, the document shall be submitted for public review as follows:

1. Submit the document to the Mariposa County Environmental Review Technical Advisory Committee for review and comments.

21. File a Notice of Completion (See Appendix "G.") and copies of the draft EIR with the State Clearinghouse if necessary (see section 2.120).

32. Publish, in a newspaper of general circulation within Mariposa County, a notice briefly describing the project, its general location, addresses where copies of the draft EIR are available for inspection and date when a public hearing will be held on the draft EIR.

43. Direct notification of affected property owners as defined in Section 1.700 by first class mailing; such notification to include information as described in the published notification.
54. Direct notification of public agencies, other than state agencies notified by state a clearinghouse procedures, having jurisdiction by law with respect to any environmental impact involved with a project.