

REMY, THOMAS and MOOSE, LLP
ATTORNEYS AT LAW

MICHAEL H. REMY
TINA A. THOMAS
JAMES G. MOOSE
WHITMAN F. MANLEY
ANDREA A. MATARAZZO
ERIK K. SPIESS
RENEE F. HAWKINS
OSHA R. MESERVE

455 CAPITOL MALL, SUITE 210
SACRAMENTO, CALIFORNIA 95814

Telephone: (916) 443-2745
Facsimile: (916) 443-9017
E-mail: randt@cwo.com
<http://www.randm.com>

GEORGINA E. FOONDOS
LAND USE ANALYST

BRIAN J. PLANT
OF COUNSEL

MEMORANDUM

TO: Placer County Board of Supervisors

FROM: Michael H. Remy
Special Counsel to Placer County

DATE: November 27, 2000

SUBJECT: PLANNING COMMISSION APPEAL - SKI LIFT MODIFICATIONS
- HEADWALL AND CORNICE II EXPRESS (EIAQ-3509)

I.
SUMMARY

Squaw Valley Ski Corporation (SVSC) obtained a conditional use permit (CUP) for the construction of the Headwall/Cornice II Express and Gold Coast/Mainline Express ski lifts in April 1999. The project that was actually built differed substantially from the project that was proposed to, and approved by, the County. Moreover, mitigation measures that were adopted for the project were either ineffective or inconsistently observed or implemented; accordingly, they failed to eliminate all direct and cumulative significant impacts of the project.

Earlier this year, SVSC submitted an application for a modification to the original CUP that more accurately describes the project as constructed. In considering the application, the County is not required to rely on the existing negative declaration because the project as built was not contemplated in that document. Moreover, since the negative declaration was adopted, the County has acquired significant new information not previously available that requires further environmental analysis, including:

(1) Squaw Creek was recognized as an impaired waterway by the State Water Resources Control Board and the United States Environmental Protection

Agency (EPA), and was listed pursuant to section 303(d) of the Federal Clean Water Act; and

(2) The project's implementation has demonstrated that the mitigation measures identified in the 1999 Negative Declaration are inadequate – either because SVSC failed to scrupulously observe them or because they were simply ineffective, or both.

The Environmental Review Committee (ERC) has therefore required the preparation of an Environmental Impact Report (EIR) for the requested modifications of the CUP for the Headwall and Cornice II ski lifts (CUP-2385). In the face of the applicant SVSC's appeal of that decision, the Planning Commission unanimously upheld the ERC. Now before the Board is SVSC's appeal of the Planning Commission's decision to uphold the ERC.

II. BACKGROUND

Squaw 4c



1. SVSC's Environmental Record.

SVSC has a well-established history of failing to respect and comply with applicable land use and environmental laws. For instance, the California Court of Appeal concluded that, in 1989 and 1992, SVSC flouted the Z'berg-Negedly Forest Practice Act, the terms of its use permit, and a temporary restraining order imposed on it by a trial court when it cut more than 1,800 trees that were between 300 and 600 years old. (Hewlett v. Squaw Valley Ski Corp. (1997) 54 Cal.App.4th 499.)

Since then, SVSC has not significantly mended its ways. In recent years, SVSC has developed a pattern of constructing projects without prior approval or substantially modifying approved projects without prior approval (e.g., SVSC remodeled the "Olympic Plaza" restaurant without obtaining the required permits, SVSC substantially expanded the blasting operations for its Funitel project without prior approval, SVSC undertook substantial excavation for the East Broadway project without prior approval, SVSC installed electrical vaults and conduits in the Gold Coast area without obtaining a permit). SVSC is now under criminal investigation by the EPA for possible violations of the Clean Water Act and Rivers and Harbors Act, among other things.

2. SVSC's History With This Project.

At issue in this case are SVSC's alleged misdeeds in relation to CUP 2385, which authorized the installation and operation of two new chair lifts — Gold Coast/Mainline Express and Headwall/Cornice II Express.