



## MARIPOSA PLANNING STAFF REPORT

**From:** Sarah Williams, Planning Director

**Prepared By:** Steve Engfer, Associate Planner

**Planning Commission Hearing Date:** June 2, 2017

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**PROJECT:** Tenaya Cabins Project - General Plan/Specific Plan Zoning Amendment (GP/SPZA No. 2014-163), Land Division (LDA No. 2014-165), Conditional Use Permit (Conditional Use Permit No. 2014-164) and Final Environmental Impact Report (Final EIR)

### TENAYA CABINS PROJECT DESCRIPTION:

GP/SPZA No. 2014-163: A proposed General Plan / Specific Plan / Zoning amendment proposing a Resort Commercial land use/zone for Parcel 1 and a Single Family Residential ½-acre land use/zone for Parcel 2.

LDA No. 2014-165: A proposed two parcel land division - Parcel 1 to be 24.82 acres in size and Parcel 2 to be ½ acre in size.

CUP No. 2014-164: A proposed Conditional Use Permit for a 54 pre-fabricated cabins, a 2,700+/- square foot clubhouse, an exterior patio area and access improvements on Parcel 1.

**LOCATION:** The project parcel is located immediately north of Tenaya Lodge in Fish Camp CA.

**ASSESSOR PARCEL NUMBER:** APN 010-350-010 (Formerly 010-250-008)

**PROJECT PROPONENT:** Delaware North (DN)

**STATE CLEARINGHOUSE NUMBER:** 2015021032

**CURRENT GENERAL PLAN/SPECIFIC PLAN LAND USE:** Planning Area, Fish Camp Town Plan Specific Plan, Single Family Residential 1-acre

**FISH CAMP TOWN PLANNING ADVISORY COUNCIL ACTION:** The Fish Camp Town Planning Advisory Council recommended that the Planning Commission recommend that the Board of Supervisors approve the Project with findings and amended conditions and certify the Final EIR.

### SUMMARY ANALYSIS & RECOMMENDATION:

Staff and the Fish Camp Town Planning Advisory Council (PAC) reviewed the project and found the proposed project with its parcel sizes, provisions for water and waste water treatment, access, parking, landscaping, aesthetics and EIR complies with all the relevant standards contained in the Mariposa County General Plan, Fish Camp Town Planning Area Specific Plan, Zoning and Subdivision codes and Road Improvement and Circulation Policy (RICP), with application of conditions of approval and mitigation measures. The project is feasible and with implementation of the proposed conditions and mitigation measures, will not negatively impact

the environment. The Fish Camp Town PAC recommended certification of the EIR and project approvals to the Planning Commission and the Board of Supervisors.

**PROCESS:** The summary procedural steps for this project follow:

1. EIR Scoping (Public Input – Completed July/August 2015)
2. Draft EIR Public Review (August 26 – October 11, 2016)
  - Planning Commission Public Hearing to receive comments on the DEIR 9/23/16
  - Fish Camp Town PAC Public Meeting to receive comments on the Draft EIR 9/24/16
3. Final EIR (Draft EIR + Comments Received + Response to Comments)
4. Staff Report – project review and recommendations for action on LDA, GP/SPZA and CUP applications
5. Public Review / Meetings and Hearings / Action: Final EIR & Staff Report
  - Fish Camp Town PAC Public Meeting May 13, 2017 – Public Input / Recommendation of approval to the Planning Commission
  - Planning Commission Public Hearing (**Current Step**) – Public Input / Recommendation to the Board of Supervisors
  - Board of Supervisors Public Hearing (June 27, 2017 Tentative) – Public Input / EIR Certification and Action on Project Applications

\*Any amended conditions or mitigation or added conditions and/or mitigation that may result from remaining processing steps such as Planning Commission or Board of Supervisors steps would be included in the final conditions of approval on the project.

## **FISH CAMP TOWN PLANNING ADVISORY COUNCIL RECOMMENDATIONS**

The Fish Camp Town Planning Advisory Council met on May 13, 2017. As a result of the discussion at the meeting, changes to the project conditions were made. The changes address comments and concerns, and also commitments made by the project applicant Delaware North. A list of the issues and the conditions which were amended follows:

- Access Segment 3 Marshall Easement. Delaware North will improve the existing Marshall Easement Road from the end of Access Segment 2 to the project parcel boundary (Marshall property line). All improvements shall meet minimum emergency access requirements, erosion control and storm water management requirements including any applicable engineering at the expense of Delaware North. (see Condition No. 57) (*Amended project proposal*)
- The Marshall lot property owner will be provided an opportunity to have input on the site security, media and fencing plan for areas near the Marshall parcel shared property line. (see Condition No. 84) (*Amended project proposal*)

- The conduct of the Bohna Ranch cattle drive through the property (occurs two times per year) may continue, with all necessary coordination between the rancher and the Tenaya Lodge management to occur prior to the drive. It shall be the responsibility of the ranch manager to coordinate with Tenaya Lodge management and comply with Tenaya Lodge requirements for the event. (see Condition No. 103) (*Amended project proposal*)
- The originally proposed location of the lift/pump station near the clubhouse and Big Creek. The Engineered Site Plan includes an alternate location for the project sewage lift (pump) station further from Big Creek (see Condition No. 39) (Attachment H – Alternate Lift Station Site Plan) (*Amended project proposal*)
- Potential impacts, primarily those resulting from project construction, to the Fish Camp Mutual Water Company (FCMWC) Infrastructure.
  - The Draft EIR and project conditions addressed potential impacts, and the Final EIR addressed comments, however, due to concerns raised, Delaware North proposed to expand the conditions to address concerns regarding the FCMWC easements wells and infrastructure. (see Condition Nos. 33 and 34, which were amended and Condition No. 35, which was added.)

*Condition amendments are shown in italics text in the conditions of approval.*

## **PROJECT ACTIONS AND CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The proposed project requires actions pursuant to the Mariposa County General Plan, Zoning Ordinance and Subdivision Ordinance requirements and the California Environmental Quality Act (CEQA).

### **Land Use**

The project site is governed by the Mariposa County General Plan (MCGP) and the Fish Camp Town Plan Specific Plan (FCSP). The proposed project requires three land use Zoning and subdivision entitlement actions pursuant to the MCGP and the FCSP:

- A General Plan/Specific Plan Land Use Amendment is required to change the property from the Single Family Residential 1 Acre minimum land use to the Resort Commercial land use (LDA-Parcel 1) and the Single Family ½-Acre minimum land use (LDA-Parcel 2).
- A Land Division (LDA) is required for the proposed two parcels.
- A Conditional Use Permit (CUP) is required for the proposed 54 cabins, clubhouse, and related Resort Commercial improvements on one of the proposed parcels.

### **CEQA**

The project is subject to review pursuant to CEQA and a Draft EIR and Final EIR were prepared pursuant to CEQA (Public Resources Code [PRC] Section 21000, et seq.) and the State CEQA

Guidelines (California Code of Regulation, Title 14, Chapter 3, Section 1500, et seq.). The EIR evaluates the physical environmental effects of the proposed Tenaya Cabins Project. The purpose of CEQA is to disclose to decision makers and the public the potential significant environmental effects of proposed activities, and to inject environmental considerations into how public agencies consider and take action upon applications, permits and other approvals.

### **Concurrent Processing & Final Project Actions**

The current procedural step is to consider the Project Applications and Final EIR and make a recommendation to the Board of Supervisors.

The Final EIR is comprised of the Draft EIR, all comments submitted during the public review period, and a response to all comments.

Review of the Final EIR occurs together with the Project Staff Report (review and consideration of the merits of the project, findings and conditions for action).

The following table provides the action type for each action required.

<b>Project Component</b>	<b>Resolution</b>	<b>Ordinance</b>
Final EIR Certification with Findings	<b>X</b>	
Mitigation Monitoring Program	<b>X</b>	
Specific Plan Zoning Amendment with Findings	<b>X</b>	<b>X</b>
Conditional Use Permit with Findings	<b>X</b>	
Land Division with Findings	<b>X</b>	

### **Project Details**

Delaware North, the owner and operator of the Tenaya Lodge, has proposed this project.

#### **Location**

The project site is located immediately north of the Tenaya Lodge and is primarily undeveloped forested land that includes a one-acre pond (Rainbow Lake) at the northern end, Big Creek on the eastern side, and meadow and wetlands on the southern portion of the project parcel. (Attachment A- Vicinity Map)

#### **Cabins**

The Tenaya Cabins Project would include up to 54 pre-fabricated cabins set on concrete pier footings or concrete slab-on-grade foundations. Each cabin would have an area of approximately 675 square feet of room space (plus approximately 75 square feet of deck) and would be served by sanitary sewer, potable water, electricity, telephone, data, and satellite television services. The proposed site plan is designed to accommodate the existing topography of the site; minimize the impacts to existing natural features such as rock formations, trees, the Big Creek riparian corridor, Rainbow Lake, and wetlands; and maximize the buffer between the cabins and Highway 41.

#### **Clubhouse**

The proposed multi-use clubhouse would be located adjacent to Big Creek on the eastern boundary of the site and would include a large outdoor deck, fire pit, barbeque, hot tub and swimming pool. The clubhouse would be used for guest registration, administrative offices, events, laundry facilities, a small grocery, a residential-style kitchen, and recreational activities. The clubhouse would be designed to accommodate seating for 60 people on the deck and provide indoor facilities capable of holding smaller parties. Amplified sound for events at the clubhouse would conclude at 10:00 p.m.; however, events could continue past that time.

**Residential Parcel**

The proposed project includes a land division to create a ½-acre parcel for residential use. This parcel would require an amendment from Single Family Residential 1-acre Residential to Single Family Residential ½ -acre land use classification per FCSP and Mariposa County requirements. Although no development is currently proposed for this parcel, it is assumed that a residence would be built on the site in the future. Therefore, the Tenaya Cabins Project would provide vehicular access and utilities (water, wastewater, electricity) to the residential parcel. Per County Subdivision requirements, all main access road grading and improvements to the ½ acre parcel would occur within variable width easements including 40 and 60 foot wide easements, or greater as needed.

The following table provides the project components.

<b>Project Component</b>	<b>Description</b>	<b>Square Footage</b>
54 Cabin Units	Single story 1 and 2 bedroom units	675 and patio area of 75 sf+/- (7 ADA units slightly larger)
Clubhouse and Information Center, indoor and outdoor gathering/event space	1-story, patio area, outdoor seating	4000 sq. ft.+/-
Residential	½ acre parcel	Potential future residence
Parking, roadways, pathways, boardwalk, utility line extensions supporting infrastructure	88 paved parking spaces, paved roads, gravel pedestrian pathways, wooden boardwalk	

(Attachment B-Project Plans & Tentative Map)

**Project Evaluation**

**General Plan/Specific Amendment**

The project site is governed by the FCSP and the plan defines the land use classifications and relative development standards for the FCSP land area. The existing land use classification of the project site is Single Family Residential 1-acre. The project proposes a

resort commercial development lot of 24.82 acres and one single family residential lot of ½ acre in size.

The required land use classifications for the proposed project are Resort Commercial for the Tenaya Cabins (hotel/motel) uses and Single Family Residential ½-acre minimum for the proposed residential lot.

The FCSP section VIII. Specific Plan Implementation Section B, Plan Amendment Standards, 2. Specific Findings, require that findings be made for any amendment to the plan. The required findings are included in this staff report for the specific plan land use amendment as proposed. The amendment would only apply to the subject parcels and does not change the land use of any other parcels.

### **Subdivision**

The project proposes a subdivision to create two parcels: Parcel 1 is a 24.82 acre parcel proposed for the commercial resort development and Parcel 2 is proposed as a ½ acre single family residential lot (retained by the previous landowner) for future single family residential uses. The EIR for the project considered project impacts including the subdivision impacts. The conditions of approval and mitigation measures insure that the subdivision meets all applicable requirements. If approved, the project would have (3) three years plus possible extensions to meet all pre-map recordation conditions and mitigation measures and record the parcel map. (Attachment B-Project Plans & Tentative Map)

### **Conditional Use Permit (CUP)**

The Fish Camp Specific Plan Resort Commercial land use classification lists hotels and motel uses as conditional uses and, therefore, a conditional use permit (CUP) is required for the proposed 54 unit Tenaya Cabins use, as it is a resort commercial hotel use.

The EIR evaluated in detail the overall project impacts that included resort commercial hotel development, and residential uses. Both conditions of approval and mitigation measures insure that the project meets the required county CUP findings.

The CUP time limit is (3) three years in order to meet all conditions and mitigation measures necessary prior to the issuance of a grading or building permit with an ability to request one 18-month CUP time extension. Upon issuance of a grading or building permit for the project, the CUP timeline will have been met.

### **Environmental Review**

The County prepared a Draft EIR pursuant to CEQA for the Tenaya Cabins Project and used several methods to solicit input. A notice of preparation (NOP) for an EIR was issued by Mariposa County in February 2015 for the original project proposal, which included the same land division into two parcels and the same type of development as the current proposal, but included 34 cabins rather than 54. The NOP was sent to the California State Clearinghouse, federal, state, and local agencies, and members of the public.

Following applicant changes to the proposed project, a revised NOP was released on July 17, 2015 notifying the public that Mariposa County would be preparing an EIR for the revised project that proposes 54 prefabricated cabins and a clubhouse on Parcel 1, and a potential future residence on Parcel 2.

The Draft EIR evaluated the Tenaya Cabins Project potential to result in significant environmental impacts and determined that impacts would be less than significant, or would be mitigable to less than significant. The Draft EIR was released on August 26, 2016 for public review and comment for a 45-day period. The Draft EIR and project application were available for public review online and at local libraries.

A Final EIR was prepared by Mariposa County (Ascent Environmental Inc.), as lead agency, in accordance with the requirements of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines (CCR Section 15132). The Final EIR contains responses to comments received on the Draft Environmental Impact Report (Draft EIR) for the Tenaya Cabins Project. The Final EIR consists of the Draft EIR, comments on the Draft EIR, and responses to those comments, revisions to the Draft EIR, and mitigation monitoring and reporting program (MMRP).

The MMRP is Chapter/Section 4 of the Final EIR and ensures that the project will comply with all required mitigation measures put in place to reduce potentially significant impacts to less than significant levels as allowed/required by CEQA.

The Final EIR Chapter/Section 4 includes the MMRP and there is a summary table of impacts, measures to address those impacts and the proposed Monitoring Program. All mitigation measures are incorporated and applied to the project.

In February 2017, prior to the certification of the EIR, consideration of new project information was required to address the Tenaya Lodge Waste Water Treatment Facility Report of Waste Discharge, Amendment 2 (AROWD) and comments from the California Regional Water Quality Control Board (CRWQCB or RWQCB). Detailed description is included in the insert to the FEIR, Revised Appendix J, and Mitigation Monitoring and Reporting Program.

The EIR evaluation describes the potential environmental impacts of the project and recommends various mitigation measures to reduce impacts. Impacts are determined to be: 1) no impact; 2) less than significant (adverse or potentially adverse effects that are not substantial); 3) significant or potentially significant (substantial or potentially substantial adverse changes in the environment, for which mitigation measures are required); or 4) significant and unavoidable (substantial or potentially substantial adverse changes in the environment that cannot be feasibly reduced to less-than-significant levels with mitigation measures).

The EIR also presented the cumulative impact discussions to determine whether the incremental effects of the Tenaya Cabins Project are significant when viewed in combination with the effects of past projects, other current projects, and probable future projects. For the following environmental issue areas, all project and cumulative effects were found to either

result in no impact or less-than-significant impacts (no mitigation required) and were therefore not evaluated further in the EIR:

- Agricultural Resources
- Population and Housing
- Schools
- Parks and Recreation

The EIR evaluation found the following environmental impacts to be less than significant, and no mitigation would be required:

- Land Use and Forest Resources
- Transportation and Circulation
- Air Quality
- Utilities and Public Services
- Visual Resources

The EIR evaluation found the following project environmental impacts to be potentially significant or significant. However, these impacts would be reduced to less-than-significant levels with implementation of mitigation.

- Biological Resources
- Cultural Resources
- Greenhouse Gas Emissions and Climate Change
- Noise
- Geology, Soils, and Seismicity
- Hydrology and Water Quality
- Utilities and Public Services
- Hazards and Hazardous Materials

The Draft EIR and Final EIR evaluations resulted in mitigation being required of the project. A Summary of the Impacts and Mitigation Measures was included in the Draft EIR Table 2-1. The following areas of potential controversy were raised in scoping comments and in response to the Notice of Preparation of an EIR on the Tenaya Cabins Project:

- the effects of the proposed use of groundwater on existing water supplies in the community of Fish Camp, and adequacy of the proposed groundwater water supply to serve the project;
- the effects on cultural resources and the need for consultation with Native American Tribes;
- traffic associated with the proposed project, line of sight and safety on Highway 41, and cumulative traffic congestion conditions;
- the effects on biological resources, including special status species and the potential for noxious weeds;
- the potential for exposure to wildfire hazards, high fire hazard zone;
- the adequacy of utilities and public services to serve the proposed project; and



- the effects on air quality, noise, stormwater runoff, and visual resources.

All of the areas of potential controversy were evaluated and addressed in the Draft EIR and Final EIR. The Final EIR also addressed comments on the Draft EIR and included the final mitigation monitoring and reporting program. No significant and unavoidable impacts were identified. (Attachment C- Draft EIR and Attachment D- Final EIR (with insert), Revised Appendix J)

## **Practical Concerns**

The following is a discussion of key project issues.

### **Access and Circulation**

Onsite roads would generally follow existing dirt roads and are routed around existing trees, vegetation, and rock formations wherever possible to maximize visual screening. The project roads are required to be paved and designed in compliance with Mariposa County standards for slope, width, drainage/run-off, turning radius and fire and emergency access and other minimums required by the subdivision.

There are five segments (or components) to the project access and roads as described in the following sections. (Attachment E- Access and Roads Exhibit)

#### **Access Segment 1- Highway 41 Entrance**

Access segment 1 is the Highway 41 encroachment onto the project site. Vehicular access to the Tenaya Cabins is proposed from Highway 41 at the same location as an existing dirt-road entrance to the site. The entrance would be configured to meet Caltrans requirements for acceleration and deceleration distances and turning lanes. Plans included in the EIR were designed to respond to CALTRANS comments and input during the EIR preparation and review process. A CALTRANS encroachment permit is required by the project conditions of approval prior to issuance of a grading or building permit for the project. (Attachment-B Project Plans, Sheet 8 -Highway 41 Widening and Attachment E- Access and Roads Exhibit)

#### **Access Segment 2 - Subdivision Road**

Access segment 2 is from Highway 41 to proposed Parcel 2 (½ acre single family residential parcel), cabins loop road intersection near clubhouse and the Marshall easement road continuation

The circulation plan main access and subdivision road is proposed and shown to meet the County Town Class IV Road. Because the project site is located in the Fish Camp Town Planning area, Town Class roadways are required. Based on the traffic study in the Draft EIR the project trip generation total is estimated at 451 trip ends and a Town Class IV Road is sufficient to serve the project demand and meet subdivision access road requirements for Segment 2. The Town Class IV road is a paved road that includes two travel lanes of 12 feet wide each and turnouts/tapers for any fire hydrants as required by fire agencies. The Town Class IV road has optional on-street parking and sidewalks, which are not required of this

project. (Walkways and parking areas are a part of the project in other areas of the layout that provide pedestrian and parking connectivity and accessibility).

The subdivision requirements require a public utility and access easement offered for dedication to the county along the subdivision Access Segment 2 up to and including a turnaround or hammerhead T location. County standards typically require a 60 wide public utility and access easement offered for dedication for subdivision roads, although there is an allowance for a reduction as approved by the Planning Commission. Subdivision ordinance requirements must be met pursuant to County Code §16.12.070 Road Standards- Easement to Conform to County Standards. The applicant has requested an easement width reduction and proposes a variable width public utility and access easement offered for dedication sufficient to accommodate the required improvements in totality for the Access Segment 2, including any intersection sufficient to function as a turnaround and/or hammerhead T that meets County Fire, and CALFIRE requirements.

Prior to the recordation of the parcel map, the verification of the Access Segment 2 easement sufficiency shall be demonstrated and shall meet Public Works Department approval and be shown on the map to the satisfaction of the County Surveyor.

#### Access Segment 3 - Marshall Easement Road

Access segment 3 is from the Subdivision Road to APN 010-390-002 (Marshall lot) shared parcel boundary.

Even though not a subdivision or project requirement, Delaware North has proposed to improve the existing Marshall Easement Road from the end of Access Segment 2 to the project parcel boundary (Marshall Property line). This section (Access Segment 3) serves the Marshall property and should be minimally improved to the minimum county fire department and CALFIRE roadway requirements. (Added condition No. 57)

A security gate will be installed at the end Access Segment 2, at or near, the shared intersection of the clubhouse access road and proposed Parcel 2. The gate is intended to provide a security measure to deter guests of the Tenaya Cabins from using Access Segment 3 and maintain the traffic circulation on site. The gate shall meet requirements for location, site security and fire/emergency services access and be approved by the County prior to grading or building permit issuance. The gate location, type and informational gate/roadway usage signage shall be included in plans and require approval prior to issuance of grading and or building permit for the project. Required improvements would be built so as to not create a condition that precludes the use of the Access Segment 3 by the Marshall Lot property owners.

The parcel map for the subdivision shall show the proposed easement for Access Segment 3 on the parcel map and meet or exceed the existing easement that serves the Marshall property. County Engineer and County Surveyor verification shall be required prior to recordation of the parcel map.

#### Access Segment 4 - Cabins Loop Roads

Access Segment 4 is comprised of all internal circulation roadways for the cabins and clubhouse. All internal circulation roadways (Access Segment 4) are designed to meet

County Fire and CALFIRE standards for minimum width, slope, loading and capacity. Access Segment 4 is designed at a minimum of 20 feet wide, with short sections at 14 foot wide with turnouts in order to allow for emergency through traffic. While the internal cabin access roads are shown as one-way, the width is designed to accommodate emergency vehicles. No additional roadway easements are required for these internal private roadways.

#### Access Segment 5 - Secondary Emergency Access

Access segment 5 is from the northerly section of the cabins Loop road to Highway 41.

A 20 foot wide paved road for secondary emergency access from the project site was required by County Fire and CALFIRE. The project circulation plan includes the secondary emergency access road as shown from Highway 41 to the northwesterly segment of Access Segment 4. CALTRANS and fire agencies have reviewed and approved the circulation plan and location of the secondary emergency access road. The encroachment onto Highway 41 for Access Segment 5 is also subject to CALTRANS encroachment permit requirements.

A County encroachment permit is required prior to any site roadway work, grading and/or building permit issuance whichever comes first.

#### Pedestrian Access

The project proposes an internal pedestrian pathway and boardwalk layout designed to connect the cabins, clubhouse, parking areas and Tenaya Lodge. All pathways/walkways and boardwalk improvement plans must meet building code requirements prior to grading and/or building permit issuance for the project. (Attachment B- Project Plans, Sheet 3 Site Plan)

#### Road Maintenance

DN has committed to maintaining the onsite roadway system including the subdivision access road. Standard road maintenance requirements are included in the conditions of approval for the project including snow removal and storage plan. (Attachment B- Project Plans & Tentative Map)

#### Parking

The proposed site plan provides 1.5 parking spaces for each cabin plus seven additional spaces to account for retail, office and employee parking in accordance with the Fish Camp Town Planning Area Specific Plan, which results in 88 parking spaces. Seven cabins would be designed to conform to the requirements of the Americans with Disabilities Act (ADA) Standards for Accessible Design. Therefore, these seven cabins would have an ADA-compliant parking space. There would also be an ADA-compliant parking space at the clubhouse for registration. Parking would be clustered to maintain visual separation between parked vehicles and the cabins.

Conditions of approval require a parking plan be submitted and approved by the County prior to grading or building permit issuance.

(Attachment B- Project Plans & Tentative Map)

## **Water Supply**

Water for domestic and firefighting purposes would be provided by the existing Tenaya Lodge public drinking water system to serve the additional demand generated from the Tenaya Cabins project. This would include the fire water storage that is estimated to be between 120,000 and 150,000 gallons, per Mariposa County requirements. The Draft EIR Chapter 4.12 Utilities and Public Services evaluates project water supply and demand in detail including demand of both the Cabins and residential lot. It was determined that sufficient water would be available to serve the project based on the EIR evaluations and review by the State Water Resources Control Board Division of Drinking Water (SWRCB-DDW), which is the permitting agency over the Tenaya Lodge public drinking water system.

The following is an excerpt from the Draft EIR:

### *“Impact Analysis and Mitigation Measures*

#### *Impact 4.12-1: Increase demand for water supply*

*Project water demands for all components of the Tenaya Cabins Project except landscape irrigation are estimated to be 9.6 afy (acre feet per year), with average daily demands of 8,595 gallons and a peak day demand of 17,190 gallons. The existing Tenaya Lodge water system is proposed to be used to meet the project’s demand. When the proposed-project water demand is added to the demands of the existing Tenaya Lodge, the total demand on the Tenaya Lodge water supply system would be 61.4 afy. The combined Lodge-plus-project average demand is estimated to be 54,783 gallons per day, with a combined peak day demand of 109,566 gallons per day. Based on a three day continuous well pumping test, the project-plus-existing-Lodge demand can be met by pumping 7.6 hours per day and the combined peak day demand would require pumping just over 15 hours per day. The existing Tenaya Lodge water supply is sufficient to serve the proposed project. The proposed project’s water demand would not require new water supply or entitlements. Therefore, this impact would be less than significant.”*

Conditions of approval and mitigation measures insure that adequate water for firefighting and domestic purposes will be available and meet required drinking water standards to serve the project and that any potentially significant impacts to existing nearby groundwater users identified in the groundwater study are mitigated. All public drinking water permits shall be amended, obtained and approved prior to the occupancy of the project. SWRCB-DDW and the County Health Department shall verify this condition has been met prior to final and/or occupancy of the project.

## **Utilities and Wastewater Treatment**

The project Draft EIR Table 3-1 Utility and Public Services Providers, as revised by the Final EIR, provides the list of Utility and Public Service providers that would serve the project:

<b>Table 3-1 Utility and Public Service Providers</b>	
<b>Public Service/Utility</b>	<b>Agency/Entity</b>
Water Supply (wells)	Private - Delaware North
Sewer and Wastewater Treatment	Private - Delaware North
Recycled Water (for irrigation)	Private - Delaware North
Stormwater Drainage	Private - Delaware North
Fire and Life Safety	Mariposa County Fire Department, CALFIRE, USFS
Law Enforcement	Mariposa County Sheriff's Department
Public Schools	Wawona Elementary School (charter school), and Yosemite Union High School District (located in Madera County)
Electricity	Pacific Gas and Electric (PG&E)
Telephone	Sierra Telephone
Satellite television service	Sonifi Inc.
Propane	Ferrellgas
Solid Waste Hauling	Mariposa County Total Waste Systems, Inc.
Source: Compiled by Ascent Environmental, Inc. 2015	

Utilities would be installed underground within the limits of the paved access roads where feasible, and would comply with separation standards set by the State of California and the Mariposa County Health Department. Wastewater would be collected with a below-grade piping system and gravity fed to a lift station located near the low point of the property. From the lift station, wastewater would be pumped to the new Tenaya Lodge Wastewater Treatment Plant (WWTP) (operational as of January 2016) located south of the project site on the southwestern side of the Tenaya Lodge property, south of the cottages. In addition, an existing Tenaya Lodge leach field, located between the lodge and the project site, would be expanded to accommodate the project-related increase in tertiary-treated effluent discharge from the WWTP. An additional 637 linear feet of leach lines would be constructed to provide disposal capacity for the proposed Tenaya Cabins at full occupancy and the proposed subdivision Parcel 2 (½ acre residential lot).

Since the project subdivision proposed Parcel 2 (1/2 acre residential lot) would be served by the WWTP, and based on the size of Parcel 2, conditions of approval establish the requirements necessary to insure that Parcel 2 will continue to be served by the WWTP.

DN shall comply with all Central Valley RWQCB waste discharge requirements (WDRs) applied to the Tenaya Lodge WWTP under the State Water Resources Control Board's General Waste Discharge Requirements for Discharges to Land by Small Domestic Wastewater Treatment Systems Order WQ-2014-0153-DWQ (General Order).

The following is the mitigation excerpt from the insert to the Final EIR regarding wastewater disposal capacity:

*"Mitigation Measure 4.12-2: Increase treated wastewater disposal capacity*

*Prior to the building permit final for the Tenaya Cabins, DN shall install a total of 908 linear feet of additional leach line at the Tenaya Lodge central leach field, including the 637 linear feet identified in the project and 271 linear feet identified in the Report of Waste Discharge – Amendment No. 2 for Tenaya Lodge Wastewater Treatment Facility (February 2017).*

*DN shall comply with all Central Valley RWQCB waste discharge requirements (WDRs) applied to the Tenaya Lodge WWTP under the State Water Resources Control Board's General Waste Discharge Requirements for Discharges to Land by Small Domestic Wastewater Treatment Systems Order WQ-2014-0153-DWQ (General Order).*

#### *Significance after Mitigation*

*Implementation of Mitigation Measure 4.12-2 would increase the wastewater disposal capacity in the Tenaya Lodge WWTP system to provide sufficient treated effluent disposal capacity for the Lodge, Cottages, and proposed Tenaya Cabins during all months of the year. Therefore, this impact would be reduced to a **less-than-significant** level.”*

Prior to the building permit final for the Tenaya Cabins, DN shall install a total of 908 linear feet of additional leach line at the Tenaya Lodge central leach field, including the 637 linear feet identified in the project and 271 linear feet identified in the Report of Waste Discharge – Amendment No. 2 for Tenaya Lodge Wastewater Treatment Facility (February 2017)

Electricity would be extended from existing PG&E facilities. Telephone, data and satellite television service would be extended from Tenaya Lodge, so the services are integrated with the main lodge.

In order that all existing on site utilities and existing utility easements are protected, including but not limited to, the Fish Camp Mutual Water Company (FCMWC) or Sierra Telephone easements and infrastructure, conditions of approval require the developer to provide to the Planning Department a verification letter prior to grading or building permit issuance from each affected utility or utility easement holder if there is a relocation required due to the project.

(Attachment B-Project Plans Sheet 6 Utility Plan)

#### **Hydrology and Water Quality**

The project EIR describes the physical characteristics of the Tenaya Cabins Project area with regard to surface hydrology, drainage, flooding, groundwater, and water quality. An overview of the applicable laws and regulations related to these resources is presented, as well as an analysis of the environmental effects associated with the implementation of the project.

The implementation of the Tenaya Cabins Project would result in conversion of undeveloped land to developed resort commercial and residential uses, where urban contaminants including oil and grease, trace metals, organics, and trash would be generated. Conversion of undeveloped land to developed resort commercial and residential use for the Tenaya Cabins Project would alter the types, quantities, and timing of contaminant discharges in

storm water runoff. This could contribute to the long-term degradation of local surface and groundwater if the project is not properly designed and implemented.

A preliminary delineation of the 100-year floodplain for Big Creek was completed for the Tenaya Cabins Project as illustrated on Exhibit 4.11-6. of the Draft EIR. Although this floodplain is not regulated by FEMA, the Mariposa County General Plan (Flood Protection Goals 16-4 and 16-5) requires protection of the 100-year floodplain of all rivers and streams. The flood plain along Big Creek would be avoided (unaltered) by the proposed project. As indicated on the proposed site plans (Exhibits 3-3 and 3-4 in Chapter 3 of the Draft EIR), all project facilities and related ground disturbance would remain outside the delineated 100-year floodplain. The proposed project would be required to retain stormwater so as to maintain runoff from the project site at pre-project conditions. Therefore, the project would have no impact related to placing housing or structures within a 100-year flood hazard area or related to increasing flow or floodwater in Big Creek.

The Draft EIR section 4.11 Hydrology and Water Quality, evaluation resulted in the application of the following mitigation measures as outlined in the MMRP included in the Final EIR, to insure the project impacts to Hydrology and Water quality meet Federal, State and local requirements:

*Mitigation Measure 4.11-1: Prepare and implement a stormwater pollution prevention plan.*

*Mitigation Measure 4.11-2: Install permanent stormwater controls and water quality BMPs.*

*Mitigation Measure 4.11-3: Prepare and implement a final drainage report that reduces runoff to pre-project*

*Mitigation Measure 4.11-4: Prepare and implement well monitoring program. (FCMWC Well no. 1)*

The conditions of approval incorporate all EIR mitigation measures and a mitigation monitoring program and insure that the Federal, State, and local requirements are met including the Fish Camp Town Planning Area Specific Plan policies applicable as follows:

- **Section VII C. Topography and Soil Erosion**

- ***Policy VII.C-3.*** All subdivision roads should be fully engineered including erosion and drainage control measures. Such measures may include surface drainage protection, sediment basins, and physical grade stabilization structures, in addition to the standard seeding and mulching practices.
- ***Policy VII.C-4.*** All soils affected by grading and vegetation removal should be revegetated using the specific recommendations provided by the Soil Conservation Service.
- ***Policy VII.C-5.*** All proposed subdivisions should provide for future maintenance of erosion control measures and drainage facilities.

- **Section VII D. Development and the Effects on Surface Water Resources**

- ***Policy VII.D-3.*** Erosion control measures as explained in Section VII C. should be required for all development proposals.

- ***Policy VII.D-4. Residential and resort commercial development should not be permitted in the Big Creek Flood Channel. The channel area is most appropriate for open space uses and public recreation and park development.***

### **Aesthetics/Visual**

The existing visual characteristics, quality of the project site and the surrounding area, and the visual effects of the proposed Tenaya Cabins on its surroundings were evaluated in the EIR. The analysis considered the quality and character of existing scenic resources and the potential visibility of the project elements from surrounding areas, including both the physical characteristics and changes in lighting or glare in the project area. Potential short-term and long-term visual impacts that could result from project construction and operation were discussed. No significant impacts were identified.

Although proposed site lighting is limited in nature, and was not identified as a significant impact in the project EIR, the County requires that all lighting must meet International Dark Sky standards to minimize any night time light pollution that may result. Verification of this shall be met prior to issuance of a building or grading permit.

Appendix A of the Draft EIR includes the project plans and architectural elevations, color types and materials of the proposed cabins and the clubhouse structures. The proposed architectural features include color themes of earth tones, standing seam metal roof material, exposed beams along porches and eave overhang features that are associated with mountain cabin design. Conditions of approval require that the project be built in substantial conformance with the proposed plans (as approved) and this includes the architectural elevations included in the EIR Appendix A project plan set. Colors and materials must be found to substantially conform to the plans. Planning Department verification will occur prior to grading and/or building permit issuance.

In addition to the required mitigation and conditions, Mariposa County Scenic Highway Overlay standards address vegetation, natural features and minimize grading. Although Highway 41 is not a designated Scenic Highway, staff recommended conditions of approval that require construction level site plans be developed in accordance with the Scenic Highway Overlay standards.

### **Biological Resources**

The project design and layout considered sensitive resources and the project EIR incorporates mitigation measures to address any potentially significant impacts to biological resources including requirements for conducting pre-construction and during construction surveys. Project impacts to biological resources were assessed in detail as a part of the EIR for the project including the preliminary wetland determination. Project impacts to special status species, waters of the United States, including wetlands, are mitigated to insure that any project impacts are less than significant. The following is the list of mitigation measures applied to the project as a result of the EIR evaluation and biological assessments conducted:

*Mitigation Measure 4.4-3: Avoid and minimize impacts to special-status bird species.*

*Mitigation Measure 4.4-4: Avoid and minimize impacts to fisher.*



*Mitigation Measure 4.4-5: Avoid and minimize impacts to special-status bats.*

*Mitigation Measure 4.4-6: Avoid and mitigate for impacts to Yosemite toad.*

*Mitigation Measure 4.4-7: Avoid and mitigate for impacts to sensitive habitats, wetlands, and waters.*

Each mitigation measure establishes the protocols and requirements in detail and includes regulatory oversight, permitting and/or verifications from appropriate agencies such as Mariposa County, US Army Corp of Engineers, California Regional Water Quality Control Board and the California Department of Fish and Wildlife.

(Attachment C-Draft EIR and Attachment D- Final EIR)

### **Cultural Resources**

The EIR evaluated cultural resources in Chapter 4.5 of the DRAFT EIR. DRAFT EIR Section 4.5 analyzes and evaluates the potential impacts of the project on known and unknown cultural resources (also known as heritage resources) and on unknown fossil deposits of paleontological importance. Cultural resources include districts, sites, buildings, structures, or objects generally older than 50 years and considered to be important to a culture, subculture, or community for scientific, traditional, religious, or other reasons.

The impact analysis for archaeological and historical resources is based on the findings and recommendations of the confidential report titled *Fish Camp Campground Development Project Phase I Cultural Resource Assessment Fish Camp, Mariposa County, California* (First Carbon Solutions 2016). This confidential report is on file at Mariposa County.

Tribal groups were also provided the opportunity to comment through the EIR process. The American Indian Council of Mariposa County, (Aka Southern Sierra Miwuk Nation), North Fork Rancheria of Mono Indians and Picayune Rancheria of the Chukchansi Indians were all notified.

Consultation in compliance with CEQA was conducted as a part of the EIR. The Picayune Rancheria of the Chukchansi Indians stated that the Tribe considers the Fish Camp area to be a "tribal cultural resource" (TCR) as described under AB 52. The Picayune Rancheria Tribe is concerned that construction and operation of the Tenaya Cabins Project would cause changes to the tribal cultural value of the project area. The resource does not meet the criteria for a TCR under PRC §21074 and the project impact is therefore less than significant. However, the County recognizes the importance of the cultural resource to the Tribe and, therefore, agreement between DN and the Picayune Rancheria of the Chukchansi Indians was reached for application of Mitigation Measure 4.5-4.

The evaluation and consultation resulted in mitigation measures applicable to the project as follows:

*Mitigation Measure 4.5-1a: Conduct archaeological monitoring outside of P 22 594/CA-MRP-280/H.*

*Mitigation Measure 4.5-1b: Stop work in the event of an archaeological discovery outside of P 22 594/CA-MRP-280/H.*

*Mitigation Measure 4.5-2: Stop work if human remains are discovered.*

*Mitigation Measure 4.5-4: Memorialize the cultural values of the project site through public education.*

Additionally, on Thursday January, 19, 2017 the North Fork Rancheria of Mono Indians resubmitted their previous comment letter dated August 14, 2015. This letter is included in the EIR.

### **Landscaping, Vegetation and Tree Replacement**

The project was designed to minimize the loss of native vegetation, thereby reducing the need for any significant landscaping or revegetation as a part of the project. However, any site landscaping plans shall be prepared by a licensed landscape architect. All landscaping must be of native species as recommended by a biologist and informed by the biological resources assessment contained in the EIR technical appendices. Landscaping irrigation must comply with the State Model Water Efficient Landscape ordinance. Landscape plans must address tree replacement as required by project mitigation.

Conceptual landscaping plans are required prior to grading permit issuance and final landscape plans are required prior to building permit issuance both require Planning Director approval.

Landscaping plans must include provision to address mitigation measure 4.14-1 that states:

*“Provide Vegetative Screening. If tree die-off occurs on the project site to the extent that the visibility of built structures becomes prominent, as determined by the County, the applicant/operator shall plant a visual screen that effectively mutes the visibility. A planting plan shall be prepared by a landscape architect and be approved by the County; it shall use native tree and vegetation species and shall identify the sizes of plantings. Plantings shall be irrigated with recycled water and monitored for establishment for five (5) years. If plantings die, they shall be replaced on a one-to-one ratio until established. Irrigation shall meet the 2015 Model Water Efficient Landscape Ordinance (CCR Title 23, Chapter 2.7), as verified by Mariposa County.”*

### **Noxious Weed Abatement**

The Tenaya Cabins Project would require grading and other soil disturbing activities that could potentially increase the spread of noxious weeds. Noxious weeds may be carried into the site by construction equipment, or existing infestations could be spread to other areas of the site. As discussed in the DRAFT EIR Section 4.4.1, “Regulatory Setting,” the Mariposa County General Plan contains a policy to conserve the diversity of native ecosystems, plant communities, wildlife habitat, and plant and animal species in the County. Implementation measures related to addressing noxious weeds, including the enforcement of standards that reduce or eradicate invasive species affecting the agricultural and natural ecosystems, such as yellow-star thistle (*Centaurea solstitialis*) are included. To maintain consistency with the

Mariposa County General Plan and address the spread of noxious weeds into and within the project site, noxious weed Best Management Practices (BMPs) shall be included in site management plans. The content of these BMPs shall be developed in coordination with the Mariposa County Agricultural Commissioner and would include specifications for equipment cleaning, soil movement, revegetation, and weed abatement.

### **Noise**

The project proposed a new emergency diesel back-up generator, and external mechanical equipment (such as heating and ventilation systems). The project proposed outdoor events with amplified sound up to 10 pm. The project construction activities will also be a temporary noise source. EIR evaluation of noise impacts includes both temporary (construction related) and new stationary (ongoing) noise impacts. The project EIR evaluation resulted in mitigation measures to reduce noise exposure to sensitive receptors to less than significant levels. The noise exposure to nearby sensitive receptors is addressed in the project mitigation measures listed in the Final EIR MMRP that include:

*Mitigation Measure 4.9-2: Reduce noise exposure to sensitive receptors from new stationary noise sources.*

*Mitigation Measure 4.9-4: Restrict construction hours and apply noise-reducing mufflers to construction.*

The above referenced mitigation includes a site specific noise study to be submitted to the County prior to grading or building permit issuance that is prepared by a qualified acoustical engineer addressing County noise performance requirements for non-transportation noises at the surrounding off-site receptors located within 800 feet of the project site. A copy of the report shall be filed with the County *and copies shall be provided to all off-site residential receptors located within 800 feet of the project site.* If it is determined that the reduction of sound at the surrounding sensitive receptors associated with the implementation of mitigation measures is not sufficient to comply with the requirements herein, then the stationary noise source shall not be permitted. (As part of the site-specific noise study, the applicant shall assess the level of noise generated by the clubhouse speaker system to ensure that it does not exceed 50 dB Leq during daytime hours and 40 dB Leq during nighttime hours at any sensitive receptor.)

Application of the mitigation on the project insures that identified noise impacts from the project are mitigated to less than significant levels.

### **Fire Hazard Management**

The DRAFT EIR Chapter 4.13 Hazards and Hazardous Materials evaluated the potential for wildland fire and the risk of upset associated with the routine use, storage, and transport of hazardous materials and the potential health and safety consequences on workers, visitors, and residents in the project area.

The DRAFT EIR evaluation found that a potentially significant impact to the level of service by the Mariposa County Fire Department to serve the project as is illustrated by the following excerpt:

*“The project must comply with the CALFIRE SRA Fire Safe Regulations (2016) for emergency access and egress (Article 2), signing and building numbering (Article 3), emergency water standards (Article 4), and fuel modification standards (Article 5) per Title 14, Section 1270 et seq. of the California Code of Regulations. These regulations establish minimum wildfire protection standards in conjunction with building, construction, and development in State Responsibility Areas (SRAs). The project includes the installation of fire hydrants, located adjacent to the paved access road per the requirements of Mariposa County Fire Department, as well as a 120,000-gallon water storage tank required for fire storage per Mariposa County requirements. Per Mariposa County requirements, all cabins and the clubhouse would be equipped with sprinklers, and would comply with the wildland/urban interface fire construction requirements of CALFIRE and the California Building Code. Furthermore, emergency access to both Parcel 1 and Parcel 2 (the residential parcel) has been included in the site plans in compliance with the requirements of Caltrans, the Mariposa County Fire Department, and CALFIRE, as described in Impact 4.13-2, above.*

*Although construction and operation of the project would adhere to CALFIRE and Mariposa County fire protection policies, the project would introduce people and structures to an area with a very high risk of wildland fire and level of service by the Mariposa County Fire Department could be a concern. This impact is potentially significant.”*

The following mitigation is required per the Draft EIR and Final EIR for the project:

*“Mitigation Measure 4.13-3: Provide supplementary fire protection staff and equipment. Prior to operation of the Tenaya Cabins Project DN shall provide a minimum of two trained and certified emergency staff on premises or in the Fish Camp community and available to respond to emergencies at all times. The supplementary staff would be trained to meet Mariposa County Fire Department Volunteer Fire Service standards. Staffing may be provided by Tenaya Lodge employees who have completed the required training.*

*DN shall provide personal protection equipment (PPE) and positive communication equipment for all firefighting and emergency service personnel provided by DN. PPE and communication equipment shall be stored in a central, secure location. Communication systems shall permit uninterrupted contact between all firefighters at all times and at all locations on or within the property. In addition, there shall be positive communication at all times between a fire officer and recognized Emergency Command Center (ECC). All equipment required shall be approved by and become property of Mariposa County and maintained per manufacturer and National Fire Protection Association (NFPA) standards by DN.*

*DN and Mariposa County shall negotiate a mutually-agreeable project contribution to support the Mariposa County Fire Department apparatus inventory. This shall be included as a condition of permitting for the project.*

*The above requirements, or equivalent as approved by the Mariposa County Fire Department, shall be included in a fully executed agreement between the Fire Department and DN prior to the issuance of grading or building permit for the project.”*

The applicable California Fire Code and CALFIRE Public Resources Code 4290 and 4291, County Fire requirements and policies as well as the Building Department requirements for construction including the addition of 120,000 gallons of water storage, fire hydrants and required mitigation insure that the project is designed to have a less than significant impact as relates to fire hazards.

### **Forestry**

Any and all CALFIRE required timber harvest permit; conversion or other timber related permit as required by CALFIRE shall be obtained and issued prior to issuance of any grading or building permit for the project. No timber harvest or conversion may occur until a CALFIRE verification letter is received by the Planning Director and Planning Director approval is obtained.

### **Site Security**

The Tenaya Cabins project will be introducing guests to the site who are not familiar with the area or how the property is situated in relation to nearby private lands and sensitive area. As a part of the site security measures project staffing includes 24 hour security personnel. The project also proposes a signage and media program that functions as both directional and security measures in order to deter the guests from wandering off the property onto adjacent private lands or into sensitive and/or restricted areas.

Because the project is adjacent to private property and contains ecologically sensitive areas such as wetlands and on-site Rainbow Lake, the sign and media program will include a map illustrating roadways, walkways, parking, site topographic features and site boundaries. Additional physical boundary identification such as split rail fencing, handrail system or equivalent is required. The plan is to function as a security measure and interpretative program and provide a visual cue to guests and non-guests where the boundary of the Tenaya Cabins property lies, or where the boundary of appropriate guest access areas are located. The site security, signage and media program plan shall require Planning Director approval prior to the issuance of grading or building permit.

A gate along the Marshall Easement access road is required of the project and provides a level of security for the adjacent private property.

### **Employee Housing**

It is estimated that the Tenaya Cabins Project would require 18 new employees. Currently, the majority of Tenaya Lodge's employees commute the approximately 14-mile distance from Oakhurst to Fish Camp. It is assumed that the future employees for the project would have a similar commute, as no onsite employee housing would be constructed as part of the project. However, for the past two years, DN has offered seasonal employee housing to 15 employees who are employed at the Tenaya Lodge or Cottages during the peak season (mid-May to mid-October). DN currently employs a total of 427 staff during the summer season. Therefore, during peak season, DN offers employee housing in Fish Camp for 3.5 percent of the employees. Based on this same percentage, DN would offer summer housing in Fish Camp to one (1) of the 18 employees at Tenaya Cabins.

Conditions of approval require an updated housing market analysis to be submitted prior to building permit issuance. The analysis shall include recommendations for the DN employee housing programs to address housing needs if it is found that additional employee housing units are required.

### **Project Implementation**

The County requires a project development schedule be submitted prior to issuance of a grading and or building permit for the project. Project schedule shall at a minimum include:

- Ancillary outside agency permitting application estimated submittal timeline
- Projected overall construction schedule
- Estimated completion

The effective date of project approval is the when the general plan/specific plan amendment ordinance becomes effective. From that point in time, the CUP would have a (3) three year timeframe in order to obtain a grading or building permit for the project unless otherwise requested and approved by the BOS. One 18-month extension may be requested for the CUP.

The subdivision would have (3) three years to record the map. Extensions beyond the initial 3 year map recordation timeframe would be subject to the Subdivision Map Act provisions.

Both the CUP extension and the subdivision map extension requests would require a public hearing that includes public noticing, FCPAC and Planning Commission review.

### **Agency Comments**

Requests for comments to various agencies on the project, Notice of preparation and Revised Notice of Preparation for the EIR, EIR scoping, Draft EIR, and notification of Final EIR were included and addressed in the EIR, including the following agencies and tribal groups: Mariposa County Public Works, Mariposa County Health Department, Mariposa County Fire Department, Mariposa County Assessor, California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, the American Indian Council of Mariposa County (Southern Sierra Miwuk Nation), Picayune Rancheria of the Chukchansi Indians, Mariposa County Natural Resource Conservation Service, Mariposa County Agricultural Commissioner, Mariposa County Unified School District, CALFIRE, California Department of Public Health – Drinking Water Program, Pacific Gas & Electric, and Caltrans.

Applicable state agencies were also provided the opportunity to comment on the EIR through the State Clearinghouse and County requests for comment processes.

### **Public Comments**

Public comments received during the project EIR scoping, Draft EIR, public meetings and hearings were included and addressed in the Draft EIR and Final EIR.

Additionally, staff received separate correspondence from Anne Marckesano and Tim and Ally Casagrande regarding title deed restrictions on their property associated with the access easement use to their parcel over the project parcel.

The County does not enforce private deed restrictions and no further action by the County is required in relation to the comment and correspondence regarding the old deed restrictions. (Attachment F– Marshall Easement/Deed Correspondence)

Comments were also received from Shirley Marshall, adjacent property land owner who requests the zoning be maintained for residential uses and expresses concerns regarding trespassing and noise. (Attachment I- Correspondence Received)

### **Proposed Findings for General Plan/Specific Plan/Zoning Amendment No. 2014-163**

The amendment to the Specific Plan regarding rezoning the property as proposed is subject to the following general policies as stated in Section VIII.B.1 of the Fish Camp Specific Plan:

#### **Policy 1:**

Any amendment to this Plan, whether initiated by the County of Mariposa or resident of Fish Camp, shall be evaluated in light of the overall goals and objectives of the Fish Camp Specific Plan and the Mariposa County General Plan.

**Project Consistency:** The specific plan amendment is consistent with the overall goals and objectives of the Fish Camp Specific Plan and the goals, policies, and implementation measures of the Mariposa County General Plan. Consistency with these goals, policies and implementation measures are addressed in the project's recommended findings.

#### **Policy 2:**

Any amendment must be evaluated in light of the environmental impact it may create particularly as that impact is identified and mitigated in this Plan.

**Project Consistency:** An Environmental Impact Report (EIR) was prepared for the proposed Tenaya Cabins project, general plan/specific plan amendment, conditional use permit and land division in accordance with the California Environmental Quality Act (CEQA). The EIR found that with mitigation proposed, any potentially significant impacts are reduced to less than significant levels.

The environmental impact report certified for the Fish Camp Specific Plan found that proper performance of sewage disposal systems is of critical importance to the Fish Camp community considering the proximities of Big Creek and other tributaries. The Tenaya Cabins project proposes the use of the Tenaya Lodge Waste Water Treatment Facility to treat the wastewater generated by the project including both resort commercial uses and residential uses. Mitigation measures established by the Tenaya Cabins EIR require additional leach field of 908 linear feet. Both the resort commercial and residential uses must connect to the Tenaya Waste Water Treatment Plant. Operation of the Tenaya Lodge's state-of-the-art

wastewater treatment facility will have no impact on the Fish Camp community; connection to this existing system, which is operated under a state permit, will ensure that wastewater generated from the project is adequately treated and properly disposed.

The following specific findings are required to be made, in accordance with Section VIII.B.2 of the Fish Camp Specific Plan. In order to amend the Specific Plan it must be found that:

**Amendment Finding 1:**

The amendment will further the goals and objectives of the Fish Camp Specific Plan and the Mariposa County General Plan.

**Evidence:** The overall goal for the development of the community of Fish Camp as stated in Section IV – Principles of Plan Administration of the Fish Camp Specific Plan, is the following:

*“To provide for the greatest obtainable convenience, prosperity, health, safety, comfort, peace, morals and general welfare of the present and future residents and visitors to the County.”*

The objectives of the Fish Camp Specific Plan as stated in Section V. – Objectives of the Plan are as follows:

1. To provide for an orderly expansion of the community of Fish Camp.
2. To provide for, and promote, planned commercial and residential development within the Fish Camp Town Planning Area.
3. To promote the recreation and tourist industry of the community.
4. To preserve and protect the historical sites and structures of the community for the benefit of future generations.
5. To promote and provide an effective and safe circulation system within the community.
6. To preserve and protect the fragile ecology of the community specifically with respect to the hillsides of the Town Planning Area and Big Creek.
7. To promote and provide adequate and cost effective public services such as fire protection, public roads, water and sewer services, and snow removal.
8. To develop an adequate program for the evaluation of public buildings and facility needs.
9. To ensure a safe and healthful environment for residents and visitors alike.
10. To promote a diversity of housing types to meet the lifestyle of present and future residents.

The Tenaya Cabins Project, including 54 cabin units, a club house, parking and necessary infrastructure provides for and promotes an orderly addition to the adjacent existing resort commercial developments (Tenaya Lodge and Tenaya Cottages) in the community. The project is specifically designed for resort commercial development promoting the recreation and tourist industry of the community consistent with Objective 3. The project EIR was processed in accordance with the California Environmental Quality Act. The EIR evaluated impacts to cultural and historic resources and potentially significant impacts relating to



biological resources at the site. The project was designed to preserve resources such as Rainbow Lake, wetland meadows and Big Creek. Mitigation is proposed to reduce potentially significant impacts to a less than significant level, thus meeting Objective 4. The EIR evaluated traffic impacts and found project would not have a significant impact on the community's circulation system and therefore would be consistent with Objective 5.

The project project design minimizes grading by use of pier foundations where feasible, and parking adjacent to roadways. Setbacks from Rainbow Lake, wetlands and Big Creek are proposed. EIR mitigation and conditions of approval include requirements for erosion control and storm water pollution prevention, wastewater treatment, protection of biological resources that reduces any potentially significant impact to less than significant levels in order to protect the ecology, consistent with Objective 6. The protection of the fragile ecology of the community was addressed through project design, EIR mitigation and conditions of project approval. The EIR found that with the application of the required mitigation, that the project would have no impact on the area's hydrology or water quality.

The project is consistent with Objective 7 in that Highway 41 access improvements, water, waste water, snow removal and project roads are all provided for and maintained by the project proponent and are adequate to serve the project. Additionally, the project provides fire protection water storage, equipment, gear and staffing to serve the project. A fair share contribution to fire protection through conditions and mitigation is required. The project will provide for adequate and cost effective provision of public services and is therefore consistent with Objective 8.

The project is required to meet all construction standards for access (roadways), encroachments, buildings and connection to the existing Tenaya Lodge community water system. The project is required to connect to the Tenaya Wastewater Treatment Facility. The applicant is required to maintain all on-site infrastructure improvements in accordance with applicable health and safety code requirements. Therefore, the project will be consistent with Objective 9.

General Plan Issues:

The project is consistent with the Guiding Principles of the Mariposa County General Plan, including Principle 3.2.13 which states that *"Supporting Mariposa's economy, character, and housing, the County must take responsibility to determine the appropriate levels of service, the areas where infrastructure is to be provided, when service levels will be achieved, and how they will be funded. The General Plan requires that potable water, sewage disposal, and fire safe road access be available to the property consistent with State and County regulations."*

Section 5.3.01 of the Mariposa County General Plan states that Town Planning Areas represent the rural scale "urban" development centers in the county. In describing Town Planning Areas, Section 5.3.01.B(1) states that all residential, commercial, industrial, job-center, recreation, and public uses, as defined in the General Plan, are consistent with the purpose of a Town Planning Area. Section 5.3.01.E(1) states that Fish Camp has an adopted Town Planning Area Specific Plan. The Fish Camp Plan is described as a Town Planning Area Specific Plan to allow a comprehensive mix of zoning and land uses

associated with its rural scale “urban” character.” The proposed resort commercial development is a tourist oriented commercial use that incorporates a density that preserves opens pace and utilizes a resort cabin architectural design that fits within a comprehensive mix of zoning and land uses with a rural scale.

Under Goal 5-4 of the General Plan, which states “*Designate land areas and establish siting criteria to enhance economic opportunities*”, Implementation Measure 5-4c(1) states, “*Accommodate appropriate siting and development standards for recreation and resort uses within the County.*” Implementation Measure 5-4c(2) states, “*Standards shall be included that protect visual character related to: viewsheds; structural design, landscaping and scenic environments; landform grading; site development; and lighting.*” The project proposes a resort cabin architectural design aesthetic, utilizes native vegetation for visual screening and preserves features through no build areas or setbacks from water features such as Big Creek. Conditions of approval and EIR mitigation measures require that the community’s visual character be preserved through the application of the County’s Scenic Highway Overlay zone standards, tree removal and replacement, native species landscape plans and dead and dying tree replacement plan thereby meeting the General Plan goals.

Section 6.1.05.A of the General Plan states that “*General Plan land use policies and the Economic Development Strategic Plan will encourage the development of destination resorts and hotel facilities in appropriate locations in Mariposa County.*” The project site is located adjacent to Tenaya Lodge and Tenaya Cottages and provides for an alternative type of lodging unit. The Tenaya Cabins are designed to contribute to the overall destination resort, thereby meeting this General Plan goal.

Section 9.1.05 of the General Plan (Water and Wastewater) states that “*most of Mariposa County is not within the service area of public water and wastewater treatment providers. Therefore, most development in the County must provide for its own water and wastewater treatment through on-site means or small, private communal systems.*” This section of the General Plan goes on to state that “*other portions of the County are served by small public systems. Three public water systems provide domestic water to portions of the Fish Camp area through surface springs and groundwater wells. Sewage disposal in the Fish Camp area relies on individual septic tanks and underground leach field systems.*” The project is served by an existing, permitted and state-regulated water system and wastewater treatment plant.

Goal 9-5 of the General Plan states that “*Adequate water and wastewater services shall be provided to properties in the County.*” Implementation Measure 9-5a(1) states that “*No project shall be approved unless it is shown to have access to an approved source for wastewater treatment and disposal and a potable water supply meeting Health Department requirements.*” The RWQCB, County Health Department and project EIR evaluated in detail the existing wastewater treatment system and disposal capacity proposed to serve the project and found it was adequate through the application of mitigation that requires additional leach field and ongoing compliance with the Tenaya Lodge Wastewater Treatment Facility Waste Discharge requirements and permit.

Section 13.3.01 of the General Plan states that, *“The Land Use Element contains policies for development of resort and commercial recreation uses within sub-classifications of the Rural Commercial land use classification. These types of uses support the goals of the Regional Tourism Element by providing additional tourism destinations, including destination resorts and hotels in appropriate locations, and a wider range of recreational opportunities in the County.”* This project provides an additional tourism destination, adjacent to an existing tourism facility, in an appropriate location in the county.

Goal 13-5 of the General Plan states, *“Provide job growth and sustain County revenues by enhancing and expanding the visitor-serving sectors of the economy.”* Plans to construct 54 resort commercial cabin units through the Tenaya Cabins project would supply the tourist population with an additional option for lodging to enhance the visitor experience. The cabins will provide additional transient occupancy tax revenues to the county.

The Tenaya Cabin project is consistent with these goals, policies, and implementation measures contained in the Mariposa County General Plan.

**Amendment Finding 2:**

All environmental impacts of the amendment can be satisfactorily mitigated.

**Evidence:** The EIR prepared for the Tenaya Cabins Project evaluated agricultural resources, population and housing, public services, land use and forest resources, biological resources, cultural resources, transportation and circulation, air quality, greenhouse gas emissions and climate change, noise, geology and soils, hydrology and water quality, utilities and public services, hazardous materials and hazards, visual resources, cumulative impacts, and found either no impact, less than significant impact or less than significant with mitigation. All impacts of the project can be satisfactorily mitigated.

**Amendment Finding 3:**

The amendment will not result in the degradation of the community as a residential and commercial center.

**Evidence:** The EIR for the project found that would have no significant impacts on the residential component of the community with the application of mitigation. The amendment will enhance the community’s resort commercial improvements and opportunities.

**Amendment Finding 4:**

The proposed amendment is needed to promote orderly growth within the Fish Camp community.

**Evidence:** The specific plan amendment will allow for the dividing of assessor’s parcel number (APN) 010-350-008, located immediately north of the Tenaya Lodge. The first parcel would be rezoned from Single Family Residential 1-acre to Resort Commercial for the construction of 54 pre-fabricated cabins and a clubhouse. The second parcel would be rezoned from Single Family Residential 1-acre to Single Family Residential ½ -acre for a future single family residence. In order to develop the property, a number of conditions are required. Compliance with these conditions will ensure orderly growth in conformance to the

Fish Camp Plan and General Plan, that establish the policies for orderly growth in the County and Fish Camp.

**Amendment Finding 5:**

The area proposed for amendment is uniquely suited to the proposed use or density and other areas are not presently available or usable for such use or density.

**Evidence:** The project site is one of a few parcels in the Fish Camp Town Planning Area that has sufficient size (26.89 acres) to accommodate for resort commercial uses. The project site is adjacent to existing resort commercial uses and also has Highway 41 frontage and access. The site has relatively level topographic characteristics. The proposed development site is an area available for such a development and will complement the adjacent land uses and operations of the Tenaya Lodge and Tenaya Cottages. The Tenaya Cabins project is in compliance with the open space provisions for Resort Commercial development as described in the Fish Camp Specific Plan. Sub-section 3.f. in Section VI (Land Use Policies and Standards) of the Specific Plan requires that 15% of the net lot area may be utilized for lodging development. An additional 25% of the net lot area may be utilized for additional development. The remaining 60% of the net lot area is required to remain in open space. The proposed Tenaya Cabins lodging development component (cabins and clubhouse) is estimated at less than 45,000 square feet representing less than 5% of the net lot area, thereby being far below the allowance per the Specific Plan. The total area together with access, parking and roads which are estimated at 100,300 sf (9% of the net lot area) meets the 60% open space requirement at less than 15% total of both structures and paved/roadway area. The proposed density of 54 units is far less than the Fish Camp Specific Plan Resort Commercial Development Standards VI., A. 3., f. 1. a. one lodging unit ( LU) shall be permitted for each 5,000 square feet of net lot area, which is over 200 units for the project parcel at net 24 acres.

**Amendment Finding 6:**

The amendment will not result in damage or have an adverse effect on the value of adjacent properties.

**Evidence:** The EIR prepared for the project mitigates any potentially significant impacts on adjacent property owners including potential noise impacts. The mitigation ameliorates potential adverse effects on the neighboring properties and thereby results in no damage or adverse effects on the value of the adjacent property. The improvements to the project's access road also improves access to an offsite parcel. Adequate buffer between the project and neighboring property owners is provided. All work is done through permits and inspections. On-going operation of the water and wastewater facilities are monitored by a permit and state agency.

**Amendment Finding 7:**

The amendment will not result in an overtaxing of the existing community circulation system or create a traffic hazard.

**Evidence:** The EIR for the project found that the traffic demand generated by the project with the required Highway 41 encroachment and on-site roadway and circulation system

improvements, will not substantially affect the performance of, or overtax, the circulation system. Application of CALTRANS highway improvement design standards, encroachment requirements and County roadway design improvement standards result in operations such that a hazard is not created. The circulation system will not be overtaxed and will accommodate for the project traffic demand.

When zoning on property is amended in Mariposa County, the following findings are required to be made, in accordance with Section 17.128.050.C. of Title 17, Mariposa County Zoning Code. It must be found:

**Amendment Finding 8:**

That such an amendment is in the general public interest, and will not have a significant adverse effect on the general public health, safety, peace, and welfare.

**Evidence:** The project is in the general public interest in that it serves to implement the Mariposa County General Plan and the Fish Camp Specific Plan as stated in FINDING 1 above, and will promote the orderly growth of the community of Fish Camp as stated in FINDING 4 above. The project will not have a significant adverse effect on the general public health, safety, peace, based on the discussion in the Evidence sections for FINDINGS 2, 3, 6, and 7 above. The text of those sections is incorporated into this section by reference.

**Amendment Finding 9:**

That such an amendment is 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.

**Evidence:** As noted in FINDING 1 above, the project is consistent with land use descriptions, and applicable goals, policies and implementation measures of the Mariposa County General Plan. The general plan is a long term guide for county development and project consistency with the general plan confirms that it will implement the general plan. Specific plans are designed to implement the general plan and provide more area specific land use standards. The project is consistent with the Fish Camp Specific Plan, which specifically directs development within the community and, therefore, provides a short term basis for day-to-day decision making.

**Amendment Finding 10:**

That such an amendment conforms to the requirements of state law and county policy.

**Evidence:** State law and the Mariposa County General Plan allow for the amendment to area plans, including the adopted Specific Plan for the Fish Camp Town Planning Area. This amendment has been processed in accordance with the requirements of the Mariposa County General Plan, Title 17, Mariposa County Zoning Code and the Fish Camp Specific Plan. This amendment has also been processed in accordance with adopted environmental review policies and laws. The public hearings were noticed in accordance with requirements of Section 17.132 of Title 17 and applicable sections of state law.

**Amendment Finding 11:**

That such an amendment is consistent with other guiding policies, goals, policies, and standards of the Mariposa County General Plan.

**Evidence:** The project is consistent with all applicable guiding policies, goals, policies, and standards of the Mariposa County General Plan. To support this conclusion, the discussion in the Evidence section of FINDING 1 is incorporated into this section by reference.

**Amendment Finding 12:**

Due to the fact that the project amends the zoning classification on individual parcels it must be found that:

The subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.

**Evidence:** The site is physically suited for the zoning amendment as evidenced by FINDINGS 2, 3, 5, 6, 7, and 8, which are incorporated into this section by reference.

**Project Findings for LDA No. 2014-165**

**Land Division Finding 1:** The site is physically suitable for the type and density of development.

**Evidence:** The site is physically suited for the Resort Commercial uses at the proposed density of 54 cabin units, 2500 sf Clubhouse, parking and access improvements and proposed Single Family Residential ½ acre lot for low-density homes and appurtenant improvements. The subdivision density is designed in accordance with the Resort Commercial and Single Family Residential ½ acre Land Use Classifications. This finding of physical suitability is based on the EIR review and evidence supporting the amendment Findings.

**Land Division Finding 2:** The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

**Evidence:** The EIR prepared for the project found that based on the approved project description, the project would have a less than significant effect on the environment with mitigation applied. The project may have an adverse impact on the wildlife resources and potential habitat areas, and therefore, subject to the California Department of Fish and Wildlife file fees as required by AB 3158 and SF 1535 and County Clerk fees.

**Land Division Finding 3:** The design of the subdivision or the proposed improvements is not likely to cause serious public health problems.

**Evidence:** This land division and its subsequent use for low-density residential and resort commercial purposes are not likely to cause serious health problems. Future resort commercial and residential uses will be required to comply with all Building Code regulations and the State Water Resources Control Board (SWRCB) Division of Drinking Water, Regional Water Quality Control Board (RWQCB) and Health Department standards for the provision of water, sewage treatment and disposal systems. The proper location and implementation of these improvements will ensure that serious health problems will not occur on the site. The project has been reviewed by the Mariposa County Fire Department and CAL FIRE. The land division has been designed to comply with all applicable fire safe requirements. All future commercial and residential uses will be required to comply with the State Fire Safe Standards as mandated by California Public Resource Code (PRC) Sections 4290 and 4291, which will eliminate any potential health and safety issues related to fire protection. The design and location of each lot and new ingress/egress points to the subdivision and individual lots comply with all applicable County standards as well standards contained in PRC sections 4290 and 4291.

**Land Division Finding 4:** The proposed map is consistent with applicable General and Specific plans as specified in Government Code Section 65451.

**Evidence:** The land division is the process required of the project in order to create two parcels, one for resort commercial uses and another for residential uses that in part helps accomplish Mariposa County General Plan's Housing Element overall goal to "Provide opportunities for an adequate supply of sound, affordable housing units for ownership and for rent in a safe and satisfying environment for the present and future residents of the County." Primary access to the land division's proposed two parcels is from a State Highway (41) encroachment and proposed on-site subdivision access road. The applicant will have to comply with required encroachment and roadway design improvements, which will ensure that the project has adequate capacity for the additional traffic generated by the new parcels created by this project.

**Land Division Finding 5:** The design or improvement of the proposed subdivision is consistent with applicable General and Specific plans.

**Evidence:** The minimum parcel size, minimum density, and building intensity proposed by the project are consistent with standards contained in the Resort Commercial and Single Family Residential ½ Acre Land Use Classification of the Fish Camp Specific Plan and the General Plan Classification of Planning area. The land division design complies with the County Subdivision Ordinance's maximum 4:1 length to width ratio for parcel configuration.

**Land Division Finding 6:** The design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

**Evidence:** The project will not conflict with any public easement. Affected utility companies have reviewed the proposed project. Conditions of approval require adequate easements and agreements as needed for utilities and access easements.

## **Project Findings for CUP 2014-164**

(Findings pursuant to §17.112.040., Mariposa County Zoning Code)

**CUP Finding 1:** That adequate open space is provided.

**Evidence:** The project site is a 26.89 acre parcel. Adequate open space is provided by this proposal. Relative to the 26.89 acre parcel, the proposed 54 cabins (675 sq. ft. cabin and 75 sq. ft. deck) and clubhouse (2,700 sq. ft.) will result in an estimated maximum building footprint of 43,200 sq. ft. which is approximately 3.7% of the parcel area. Using building area and non-building area (access roads / parking) footprint coverage, the majority of the site, or over 90% of the site, will remain in open space. There is adequate open space being provided by the project.

**CUP Finding 2:** That the site is physically suited for the proposed development;

**Evidence:** The project site is one of a few parcels in the Fish Camp Town Planning Area of sufficient size (26.89 acres) to accommodate resort commercial uses. The site is adjacent to existing resort commercial uses and that also has sufficient Highway 41 frontage and access. The proposed development site will complement the adjacent land uses and operations of the Tenaya Lodge and Tenaya Cottages. The Tenaya Cabins project is in compliance with the open space provisions for Resort Commercial development as described in the Fish Camp Specific Plan. Sub-section 3.f. in Section VI – Land Use Policies and Standards, of the Specific Plan requires that 15% of the net lot area may be utilized for lodging development. An additional 25% of the net lot area may be utilized for additional development. The remaining 60% of the net lot area is required to remain in open space. The proposed Tenaya Cabins lodging development component (cabins and clubhouse) is estimated at less than 45,000 square feet representing less than 5% of the net lot area, thereby being far below the allowance per the Specific Plan. The total area together with access, parking and roads meets the 60% open space requirement. The proposed density of 54 units is far less than the Fish Camp Specific Plan Resort Commercial Development Standards VI., A. 3., f. 1. a. one lodging unit ( LU) shall be permitted for each 5,000 square feet of net lot area, which is over 200 units for the project parcel at net 24 acres.

**CUP Finding 3:** That adequate provisions have been made for sewage disposal and handling of solid waste

**Evidence:** The Tenaya Lodge Waste Water Treatment Plant is proposed to serve the project. The EIR and project analyses found that with the application of conditions and mitigation measures, the provision of wastewater treatment will be sufficient to serve the demands of the project. The waste water treatment system must comply with all Building Code regulations, SWRCB Division of Drinking Water, RWQCB and Health Department standards for the sewage treatment and disposal. Conditions of approval require that adequate waste handling services are contracted to serve the project site. Enforcement of County Health standards will insure that sewage disposal and solid waste disposal are adequately handled and not generate a health hazard.



**CUP Finding 4:** That the proposed development will have adequate potable water for public use and fire protection.

**Evidence:** The Tenaya Lodge public drinking water system is proposed to be used to serve the project. The project includes the addition of a 120,000 gallon water storage tank to serve the project and includes the fire flow (protection) demands of the project. The EIR for the project evaluated the supply of water to meet the demands of the project that included review by the California RWQCB Division of Drinking Water and County Fire department and it was found that adequate water is available. The application of mitigation and project conditions insures that the water is sufficient for the drinking water and fire protection requirements. The provision of potable water is regulated to comply with State public drinking water standards.

**CUP Finding 5:** The project complies with all standard and special setback requirements and appropriate buffers have been provided for adjacent land uses.

**Evidence:** The project meets all applicable Fish Camp Specific Plan setback requirements the resort commercial development. The project proposes to retain existing trees and shrubs as a buffer along the property lines. Tree removal and replacement of dead and dying trees, and landscape plans are required of the project to demonstrate compliance with the Mariposa County Scenic Highway design standards which require maintenance of vegetative screening and buffers. The EIR for the project evaluated visual impacts and noise impacts and through the application of mitigation found that the impacts at neighboring land uses to be less than significant. The EIR for the project and project layout maintains no build zones along site water features including Big Creek and Rainbow Lake. As a result of the flood study, flood plain boundary and wetland delineation, there are required "no build areas" shown on the project plans. These special buffers and setbacks are required by project mitigation and conditions require adherence to these setbacks and buffers.

**CUP Finding 6:** That appropriate access is available or is proposed to the development.

**Evidence:** The project access is from a State Highway 41 and proposed subdivision access road. With application of required encroachment and roadway design improvements, it can be found that the project will have adequate capacity for the additional traffic generated by the resort commercial development and new parcel created by this project. The project EIR was circulated and reviewed. Access improvements will be required to meet all applicable design standards established by Public Works and CALTRANS.

**CUP Finding 7:** That the proposed use is consistent with the policies and standards of the General Plan and any applicable specific plan.

**Evidence:** The General Plan encourages Resort Commercial Development through the application of Area Plans in the Land Use Element. Section 13.3.01 of the General Plan states that, *"The Land Use Element contains policies for development of resort and commercial recreation uses within sub-classifications of the Rural Commercial land use classification. These types of uses support the goals of the Regional Tourism Element by providing additional tourism destinations, including destination resorts and hotels in*

*appropriate locations, and a wider range of recreational opportunities in the County.*” The Fish Camp Specific Plan Land Use Classification of Resort Commercial allows commercial restaurant uses with a use permit such as is proposed. The project will create a resort lodge facility to serve the public at large, the local community and the customers for the Tenaya Cabins. This development is in compliance with the policies of the General Plan and the Specific Plan.

**CUP Finding 8:** That the project as approved will not have a significant effect on the environment, or the significant impacts have been eliminated or substantially lessened, or determined that the significant effects are unavoidable and acceptable due to overriding concerns.

**Evidence:** An environmental impact report (EIR) was prepared for the Tenaya Cabins Project, pursuant to California Environmental Quality Act (CEQA, California Public Resources Code, Section 21000, et seq.).

Approval of a project with significant impacts requires that findings be made by the lead agency pursuant to the California Environmental Quality Act (CEQA, California Public Resources Code, Section 21000, et seq.), and State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3) Sections 15043, 15091, and 15093. CEQA Guidelines Section 15092(b) requires a finding that the significant impacts of a project are either: (1) mitigated to a less-than-significant level or (2) that the public benefits of a project outweigh the significant impacts (requires a Statement of Overriding Consideration).

The Tenaya Cabins Project Final EIR concluded that all project impacts would be mitigable to less than significant; the project would not result in significant and unavoidable impacts. The project CEQA Findings of Fact and mitigation and monitoring program are made a part hereof.

**CUP Finding 9:** That the establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the county

**Evidence:** This project proposes a resort commercial development directly adjacent to other resort commercial developments. The Conditional Use Permit will establish written limits to the use of the Tenaya Cabins. The Conditional Use Permit and project EIR will establish specific identified mitigation measures and conditions to address potential impacts the development may have on surrounding properties or properties in the community, including noise and light and traffic and outdoor activity (reducing impacts to a level of less than significant). Finally, this Conditional Use Permit will establish requirements for construction and ongoing operation of the Tenaya cabins project to insure no significant project impacts on persons residing or working in the neighborhood or in the community. There is a benefit to the health, safety, morals, comfort and general welfare of persons residing and working in the neighborhood to have established limits and mitigations such as will result from this project.

The Environmental Impact Report (EIR) evaluated all potential environmental impacts of the proposed project and concluded that the project could occur with no significant environmental impacts based upon the implementation of adequate and feasible mitigation measures. These mitigation measures are incorporated into the project.

This Conditional Use Permit has been reviewed through a discretionary process, and there have been numerous opportunities for public input on health, safety, morals, comfort and general welfare issues throughout the public process. All public input on these matters as well as input and recommendations from the Fish Camp Planning Advisory Council have been considered. The Planning Commission has considered the EIR for this project. Finally, the Planning Commission has considered the staff report, project findings, the recommended conditions (106), and the CEQA Findings of Fact and Mitigation Monitoring and Reporting program, establishing requirements to address:

- Protection of special status plant species
- Protection of special status animal species
- Protection of cultural resources
- Minimizing grading and grading impacts
- Protection of trees and vegetation
- Elimination of off-site noise impacts
- Elimination of off-site lighting impacts
- Limitation to hours and days of outside construction activities
- Implementation of air quality requirements
- Implementation of a noxious weed program
- Implementation of State Fire Marshall requirements and improved wildland fire protection
- Clearance of snow and ice during winter months
- Roadway and site maintenance
- Aesthetics

The Planning Commission finds that with mitigation and conditions, and the continued maintenance and operation of the use as conditioned will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, or general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the county.

Finally, this Conditional Use Permit is consistent with the General Plan and Specific Plan, as described in Finding No. 7 of this Resolution.

### **Proposed Project Conditions and Mitigation Measures Conditional Use Permit No. 2014-164**

*All responsible agencies and the specific timing of all the actions required for the mitigation measures are included in the Board of Supervisors-approved EIR Mitigation Monitoring and Reporting Program.*

**General**

1. After the effective date of the Board of Supervisors' approval of General Plan /Zoning Amendment (GP/ZA) No. 2014-163, the Tenaya Cabins project shall be constructed in substantial conformance with the approved site plan and building elevations as approved by the Board of Supervisors. Minor increase in project square footages up to 10%, with no increase in the number of units, may be considered and approved by the Planning Director. Any substantial modification of the site plan requires additional public review.
2. Any representations during public meetings or public hearing by the applicant or agents speaking on the applicant's behalf shall be reduced to writing and added as conditions of project approval.
3. The conditional use permit (CUP) shall be activated by the issuance of the first building or grading permit within 36 months from the effective date of Board of Supervisors approval of the project. Should activation of the permit(s) be delayed by any moratorium or excessive delays by a permitting agency over which the County of Mariposa does not exercise control, or should a lawsuit involving the approval of the CUP or related entitlements be pending in a court of competent jurisdiction, the 36 month clock shall be tolled until such time the court action or other delay has concluded. However, if the remaining time is less than 120 days, the permit shall be valid for 120 days following the termination of the moratorium or other event triggering the tolling of the period. The tolling period shall be initiated upon written notice by the applicant to the Planning Department setting forth the facts and circumstances justifying the tolling, and shall be immediately effective unless a written notice of rejection is issued by the Planning Director within 14 days of receipt of applicant's notice.
4. The applicant may request of the Planning Commission one 18-month time extension of the CUP initial time frame (as identified in condition no. 3 above) between the effective date of the approval of the CUP and the start of construction (building permit or grading permit issuance). The application must be made at least 90 calendar days prior to the initial approval expiration date.

The Planning Commission or Board of Supervisors may impose any conditions and/or requirements it finds necessary to guarantee compliance with the project approval findings.

Any tolling provisions provided for by conditions of approval for the use permit shall remain in full effect. Time extension request provisions of this condition do not change any approved applicable tolling provisions.

5. An updated project development schedule shall be submitted to the Planning Director prior to issuance of grading and or building permit for the project. Project schedule shall at a minimum include:

- Outside agency permitting application estimated submittal timeline
  - Projected overall construction schedule
  - Estimated completion
6. No use or occupancy of the project shall commence until the Planning Director has certified all applicable conditions have been satisfied.
  7. No site disturbance activities shall commence without the issuance of a building or grading permit. Should there be no code requirement for such a permit, a letter authorizing site disturbance activities shall be issued by the Planning Director upon request and upon proof of condition completion.
  8. Prior to the issuance of any site disturbance, building or grading permits, the permit holder shall submit final site plans based on construction plans. The final site plans shall clearly be labeled to match the approved site plans. All physical construction for the project shall be sited in substantial conformance with the approved plans.

### ***Botanical/Wildlife***

9. Prior to the commencement of site disturbance activities of any kind, the Planning Director shall receive a detailed preconstruction survey clearly identifying areas which are proposed to be retained in natural vegetation (e.g. grasses, shrubs, trees and riparian vegetation). Accompanying the preconstruction survey shall be a construction management plan identifying how “non-disturbance areas” are to be physically protected during construction activities.
10. Prior to the commencement of construction activities, a tree removal and replacement plan for mature trees shall be prepared by a licensed landscape architect based upon accepted industry practice for approval by the Planning Director. The Plan shall incorporate appropriate measures to be taken to minimize the spread of non-native vegetation.
11. Rainbow Lake shall not be stocked with non- native wildlife species.
12. Prior to the issuance of any building permits, or initiation of site development activities, the impacts on 0.01 acre of wetlands shall be fully mitigated in accordance with the approved mitigation plans agreed to by affected agencies.
13. The applicant shall submit a mitigation plan to address impacts associated with construction on identified wetlands and sensitive species prior to the issuance of a grading permit or building permit. The timing of complete mitigation shall occur based on the requirements of the resource agency or prior to occupancy of the building or buildings depending on the specific case and resource agency approved mitigation plan.
14. Prior to the issuance of a certificate of occupancy or commencement of use, the

permit holder shall establish and implement a program requiring (1) guests with domestic animals to be under owners' control at all times; and (2) assurance no guest shall participate in hunting on the subject property.

15. Any proposed site fencing shall be limited to surrounding maintenance facilities, "no access" or ecologically sensitive areas, or as required for the site security plan. Fencing shall meet biologist approval and aesthetics requirements. Planning Director approval of any and all fencing plans shall be required prior to any building and/or grading permit issuance.
16. Prior to the issuance of any building or grading permits, the permit holder shall submit to the Mariposa County Agricultural Commissioner copies of the construction management plan identifying how the permit holder will take steps to prevent the transport of noxious weeds to the site. Certification of approval by the Agricultural Commissioner of such program shall be transmitted to the Planning Director.
17. Mitigation Measure 4.4-3: Avoid and minimize impacts to special-status bird species. To minimize potential disturbance to nesting birds, vegetation removal, grading and other ground disturbing activities associated with construction of the project shall occur during the non-breeding season (September 1-February 28), unless it is not feasible to do so, in which case the following measures shall also be applied.

If construction activity is scheduled to occur during the nesting season (February 28 to September 1), a qualified biologist shall conduct preconstruction surveys to identify active special-status bird nests within the project site that could be affected by project construction. Surveys shall be performed before activities occur (e.g., grading, tree removal, trenching, construction) and no less than 14 days and no more than 30 days before the beginning of activity. If no nests are found, no further mitigation is required.

If active nests are found, impacts on special-status bird species shall be avoided by establishment of appropriate buffers around the nests, as determined by a qualified biologist in consultation with CDFW. No project activity shall commence within the buffer area until a qualified biologist confirms that any young have fledged or the nest is no longer active. A 50-foot buffer around olive-sided flycatcher and Vaux's swift nests are generally adequate to protect them from disturbance, but the size of the buffer may be adjusted by a qualified biologist in consultation with CDFW depending on site specific conditions and species sensitivity to disturbance. Monitoring of the nest by a qualified biologist during construction activities may be required to determine if activity has potential to adversely affect the nest, and to allow for increased buffer size or other measures to avoid impacts to the nest.

18. Mitigation Measure 4.4-4: Avoid and minimize impacts to fisher. Although the USFWS has determined that the West Coast DPS of fisher does not require the protection of the ESA, the USFWS has recommended that a conference assessment be prepared and a conference report or conference opinion be obtained from the USFWS (Nagano, pers. comm., 2016). Because of this recommendation, reference to the USFWS is included in the following mitigation.

The five trees previously identified as containing cavities that are potentially suitable for fisher den sites, and all trees along the utility corridor that contain suitable cavities that were not previously surveyed for potential den sites, shall be surveyed (using trail cameras) no more than 7 days before the initiation of construction activities within 0.25 miles of potentially suitable den sites to determine whether there are occupied dens. The protocol for pre-construction surveys of potential den sites shall be developed in coordination with CDFW and USFWS. If no occupied dens are detected then no further mitigation is required.

If any occupied dens are detected, CDFW and USFWS shall be immediately notified and a disturbance-free buffer of 0.25 mile shall be flagged around the den at ground level. Monitoring of the den site, and any adjustment or removal of buffers shall occur in consultation with CDFW and USFWS. If buffer areas cannot be avoided during construction activities, the following construction schedule shall be implemented.

If construction activities must be conducted within the established buffer areas from occupied fisher dens, work in these areas must take place between July 1 and March 1, which is outside of the kit-rearing season. During this period and prior to work occurring within the established buffer, as indicated above the monitoring of the den and the removal of the buffer shall be conducted in coordination with CDFW and USFWS. Once it has been determined that there would be no potential for mortality as a result of den disturbance, the tree may be removed or work conducted within the buffer area with oversight by the qualified biologist.

19. Mitigation Measure 4.4-5: Avoid and minimize impacts to special-status bats. To determine if special-status bats may be affected by construction, preconstruction acoustic surveys shall be conducted during an appropriate seasonal period to detect bats, which at this elevation would be mid-April to mid-October. If no special-status bat species are detected, no further mitigation is required.

If special-status bat species are detected, surveys to determine the presence of any roosting bats in tree cavities, under bark, or in foliage shall be conducted by a qualified biologist. All trees in the project footprint plus a 300-foot buffer (on the subject property) shall be surveyed. To avoid impacts to roosting bats, if any roost sites are detected, a disturbance-free buffer of 300 foot shall be flagged, and shall not be removed until a qualified biologist has determined that the roost site is no longer in use.

If buffer areas cannot be avoided, removal of trees with active roosts must occur after August 31 and before October 15 to avoid impacts to roosting bats. Construction activities during that time would not have adverse impacts on maternity roosts because young bats would be independent from their mothers and flying. In addition, day roosts could be identified because bats would still be emerging nightly to forage.

A passive eviction plan shall be developed in consultation with CDFW. The eviction plan may include opening the roosting cavity to allow air flow, placing a one-way door

on the entrance(s) to the roost, or disturbing the roost using a high-frequency broadcasting device. The roost shall be monitored with acoustic surveys to ensure that no bats are in the roosts before the trees are removed.

20. Mitigation Measure 4.4-6: Avoid and mitigate for impacts to Yosemite toad. Construction limits in suitable habitat for Yosemite toad (e.g., wet meadow) shall be clearly demarcated with high visibility construction fencing to minimize the disturbance area. No construction activities, including staging or stockpiling materials, shall occur outside of the construction limits.

Before any construction activities begin, a qualified biologist shall conduct a training session for all construction personnel. At a minimum, the training session shall include a description of Yosemite toad and its habitat, natural history, legal status, general measures that are being implemented to conserve Yosemite toad as they relate to the project, and the boundaries within which the project may be accomplished. Instructions on actions to take if a toad is encountered on the project site shall be provided, including name and phone number of biological monitor and USFWS contact information.

A qualified biologist shall survey the work site two weeks before the onset of activities in areas of suitable habitat for Yosemite toad (e.g., wet meadow). The pre-construction surveys shall focus on areas that toads may occupy, such as mammal burrows and cover areas under rocks, and shall identify eggs, tadpoles, juvenile, and adult life stages.

If a Yosemite toad is found on the project site, all construction activities in areas of potential habitat shall halt and USFWS shall be contacted. The project shall comply with requirements of the Endangered Species Act to exempt take of Yosemite toad, which may require additional conservation measures such as:

- Delaying construction within wet meadow habitat until the meadow is dry to allow juvenile toads to disperse.
- Excluding toads from the work site, by installing a fabric silt fence that is monitored and maintained for the duration of construction activities between the work area and the adjacent habitat.
- Having a biological monitor on-site during construction to monitor the work areas for Yosemite toads.

21. Mitigation Measure 4.4-7: Avoid and mitigate for impacts to sensitive habitats, wetlands, and waters. As a first priority, the project applicant shall seek to avoid impacts to sensitive habitats through project design, setbacks, and other avoidance measures.

- To avoid temporary impacts to the water quality of wet meadow in the vicinity of the clubhouse and boardwalk, no vehicles or equipment shall be refueled within 100 feet of jurisdictional areas unless a bermed and lined refueling area is constructed. Spill kits shall be maintained on the site in sufficient quantity to



accommodate at least three complete vehicle tank failures of 50 gallons each. Any vehicles driven or operated within or adjacent to drainages or wetlands shall be checked and maintained daily to prevent leaks. No vehicles or construction equipment shall be stored overnight within 100 feet of jurisdictional areas unless drip pans or ground covers are used.

- In addition, a minimum 25-foot construction setback shall be observed, where feasible, from the outer edge of all wet meadow and forested/shrub wetland/riparian communities, as shown in EIR Exhibit 4.4-1. Setbacks shall be fenced or flagged before construction occurs in adjacent areas. In areas where a setback is not feasible, such as for the construction of the boardwalk and clubhouse, encroachment of the work area into wet meadow habitats will be kept to a minimum and similarly flagged or fenced. If a 25 foot buffer is not feasible a reduced setback may be utilized in other areas of the project site if approved by a qualified biologist.
- To facilitate site management and ensure avoidance of sensitive habitats, all wetlands, riparian areas and streams and their setback areas shall be clearly delineated on plan sets. No construction- or operation-related vehicular access shall occur through wetlands, riparian areas, or streams. A biological monitor shall be present during construction to ensure the setback areas are avoided.

If impacts to jurisdictional wetlands or other waters of the United States is not possible, the project applicant shall implement the following measures to compensate for the loss of wetlands and other waters of the United States.

- The preliminary wetland delineation shall submitted to and verified by USACE. If, based on the verified delineation, it is determined that fill of waters of the United States would result from project implementation, authorization for such fill shall be secured from USACE.
- Based on the 0.01 permanent impact identified, the project may qualify for use of a Nationwide Permit if required criteria are met.
- For those wetlands that cannot be avoided, the project applicant shall replace all wetland habitat at acreage and location agreeable to USACE and the RWQCB and as determined during the Section 401 and Section 404 permitting processes, and shall implement all permit conditions.

### ***Public Services***

22. Prior to the issuance of any building or grading permits, the County Fire Chief and California Department of Forestry and Fire Protection shall provide the Planning Director with a letter certifying that the engineering design of the loop road is of adequate width, grade, surfacing, and construction design to meet the requirements of the fire protection agencies.

23. Prior to the issuance of the any building or grading permits, the County Fire Chief shall provide the Planning Director with a letter certifying that the permit holder has entered into a written agreement satisfying the requirements of the County Fire Department for fire protection and demonstrates compliance with EIR mitigation Measure 4.13-3. The County Fire Chief shall provide a copy of the written agreement with the certification letter. The agreement shall, at a minimum, enumerate each mitigation measure identified in the Environmental Impact Report for fire protection and shall affirmatively state the measure's inclusion in the agreement or alternatives accomplishing the same objective as required by the mitigation measure that are incorporated into the agreement.

24. Mitigation Measure 4.13-3: Provide supplementary fire protection staff and equipment. Prior to operation of the Tenaya Cabins Project, Delaware North (DN) shall provide a minimum of two trained and certified emergency staff on premises or in the Fish Camp community and available to respond to emergencies at all times. The supplementary staff would be trained to meet Mariposa County Fire Department Volunteer Fire Service standards. Staffing may be provided by Tenaya Lodge employees who have completed the required training.

DN shall provide personal protection equipment (PPE) and positive communication equipment for all firefighting and emergency service personnel provided by DN. PPE and communication equipment shall be stored in a central, secure location. Communication systems shall permit uninterrupted contact between all firefighters at all times and at all locations on or within the property. In addition, there shall be positive communication at all times between a fire officer and recognized Emergency Command Center (ECC). All equipment required shall be approved by and become property of Mariposa County and maintained per manufacturer and National Fire Protection Association (NFPA) standards by DN.

DN and Mariposa County shall negotiate a mutually-agreeable project contribution to support the Mariposa County Fire Department apparatus inventory. This shall be included as a condition of permitting for the project.

The above requirements, or equivalent as approved by the Mariposa County Fire Department, shall be included in a fully executed agreement between the Fire Department and DN prior to the issuance of grading or building permit for the project.

25. The public water system plans shall include 120,000 gallon (minimum) additional water storage. County Fire Chief approval that this condition has been met shall be required prior to building permit issuance.

26. The public water system including the 120,000 gallon (minimum) additional water storage tank(s), loop water line system, fire hydrants and the provisions to meet the commercial fire flows, as required by the County Fire, shall be installed prior to the issuance of a Building Permit for the construction of any flammable structures on the subject property or prior to the storage of flammable materials on site whichever occurs first.

27. Prior to the issuance of any building or grading permits, the permit holder shall submit required plans and water system design to the County Fire Department for review and approval. No building or grading permits shall be issued until the Planning Director receives a letter from the Fire Chief certifying the approval of the Plans. The Plans shall include all necessary information required by the County Fire Department.
28. Prior to the commencement of any structure framing, the approved water system shall be fully operational and approved by the County Fire Department. Evidence of Fire Department approval of the water system shall be provided to the Building Department prior to its issuance of any approvals to proceed with framing of the structures.
29. Prior to the issuance of a certificate of occupancy for any structure on the site, the County Fire Chief shall provide the Chief Building Official with a letter certifying that the structure(s) comply with requirements of the County Fire Department for fire protection, water supply, and other requirements.
30. Prior to the issuance of any building or grading permits, the Planning Director shall receive a letter from the CALFIRE indicating the final project design meets the requirements for the Fire Protection State Responsibility Area Firesafe Requirements for driveway standards, gate standards, road standards, emergency water supply standards, fire hydrant standards, defensible space standards, and as otherwise specified in 14 CCR§1270 et. seq.
31. All refuse containers shall comply with County Code Chapter 8.44 requirements for bear preventative/control measures. Refuse containers shall be sited and maintained to remain accessible during snow periods.
32. Prior to issuance of any building or grading permits, the permit holder shall provide the Director of Public Works with a Plan for Annual Maintenance of all on-site roads. The Plan For Annual Maintenance shall include, at a minimum:
  - a. Provisions for snow removal on all on-site roads, including the emergency access road.
  - b. Provisions maintaining access to refuse containers and the on-site wastewater and water system infrastructure.
  - c. The method by which the Plan will be implemented through regular facility employees or by contract. Copies of executed contracts may be submitted with the Plan.
  - d. Provisions for the exclusive use of non-contaminated sand during winter months.

- e. Evidence of any necessary easements or contractual access agreements with offsite property owners, if necessary.
33. Prior to the issuance of any building or grading permits, the permit holder shall provide the Planning Director with recorded copies of access agreements or easements granted in favor of any and all utility owners or access easement right owners with easements and/or facilities crossing the project site providing for access for maintenance and operation of wells, pipelines, telephone lines, electric lines or other utilities.
34. Prior to the issuance of any building or grading permits, the permit holder shall notify the Planning Director of any on-site easements which are required to be relocated as a result of the project design or construction. If any easements are to be relocated, the Planning Director shall receive a letter from the affected agency or utility indicating the permit holder has met or completed the requirements of the utility or affected agency. *All utility crossings or relocations that may be required shall meet all applicable code and regulatory requirements including but not limited to setbacks and trench depth spacing etc. If any relocation of utility infrastructure or easements is required, including Fish Camp Mutual Water Company infrastructure or easements, all relocation costs shall be at the sole expense of the project applicant.*
35. *As proposed by the project applicant, prior to grading or building permit issuance, the project applicant shall provide the County Planning Director with an executed agreement with, or letter from, the Fish Camp Mutual Water Company approving the project utility plan. The Fish Camp Mutual Water Company's review authority shall be limited to their utility infrastructure.*
36. Prior to the issuance of any building or grading permits, the permit holder shall submit restoration surety in a form satisfactory to the County Counsel. The amount of surety shall be 10% of the total construction cost of the project or equal to an engineer's estimate of the cost of site preparation and grading, whichever is greater plus a 50% contingency. This amount of the surety is to be confirmed by the Department of Public Works and guaranteed by an appropriate agreement with the County. Upon completion of the grading and building final approval by the County, the required security shall be returned to the permit holder.

### ***Hydrology, Water and Wastewater***

37. Mitigation Measure 4.12-2: Increase treated wastewater disposal capacity

Prior to the building permit final for the Tenaya Cabins, DN shall install a total of 908 linear feet of additional leach line at the Tenaya Lodge central leach field, including the 637 linear feet identified in the project and 271 linear feet identified in the Report of Waste Discharge – Amendment No. 2 for Tenaya Lodge Wastewater Treatment Facility (February 2017).

DN shall comply with all Central Valley RWQCB waste discharge requirements (WDRs) applied to the Tenaya Lodge WWTP under the State Water Resources Control Board's General Waste Discharge Requirements for Discharges to Land by Small Domestic Wastewater Treatment Systems Order WQ-2014-0153-DWQ (General Order).

38. The project shall install and maintain onsite pollutant control measures during project construction and operation as required to ensure NPDES compliance. The permit holder shall provide the Planning Director with a copy of its approved State Water Resources Control Board Construction Activity Storm Water Permits.
39. *The project site plan's identification of an alternate location for the lift/pump station, further from Big Creek and along the loop road as shown on site plan sheet 3, shall require approval by the RWQCB and County Health Department. Verification that this condition has been met shall be required by the Planning Director prior to grading or building permit issuance.*
40. The project shall install and maintain onsite runoff attenuation facilities with sufficient capacity to reduce 100-year project stormwater runoff rates to those currently generated by the project site. The project engineered grading plans shall include these facilities.
41. Prior to the use or occupancy of any building, and on a continuing basis, the potable water supply from on-site wells shall meet or be treated to meet California Drinking Water Standards or shall be treated to meet those standards.
42. On an ongoing and continuous basis, biosolids from the project shall be disposed in a method and location approved by the Mariposa County Health Department.
43. Mitigation Measure 4.11-1: Prepare and implement a stormwater pollution prevention plan (SWPPP). As described in DRAFT EIR Section 4.11.1, the project would require coverage by the statewide General Construction Permit. The General Construction Permit requires implementation of BMPs, monitoring of numeric action levels, and adherence to a site-specific SWPPP prepared to address conditions at the site during construction. Therefore, the project applicant shall prepare a SWPPP, which shall include measures such as the following:
  - Temporary BMPs to prevent the transport of earthen materials and other construction waste materials from disturbed land areas, stockpiles, and staging areas during periods of precipitation or runoff, including: filter fences, fiber rolls, erosion control blankets, mulch (such as pine needles and wood chips); and temporary drainage swales and settling basins.
  - Designated contractor staging areas for materials and equipment storage outside of riparian areas. Designated staging and storage areas would be protected by construction fencing and/or silt barriers, as appropriate. Following

project completion, all areas used for staging would be stabilized or revegetated.

- Temporary BMPs to prevent the tracking of earthen materials and other waste materials from the project site to offsite locations, including stabilized points of entry/exit for construction vehicles/equipment and designated vehicle/equipment rinse stations, and sweeping.
- Temporary BMPs to prevent wind erosion of earthen materials and other waste materials from the project site, including routine application of water to disturbed land areas and covering of stockpiles with plastic or fabric sheeting.
- To avoid temporary impacts to the water quality of wet meadow in the vicinity of the clubhouse and boardwalk, no vehicles or equipment shall be refueled within 100 feet of jurisdictional areas unless a bermed and lined refueling area is constructed. Spill kits shall be maintained on the site in sufficient quantity to accommodate at least three complete vehicle tank failures of 50 gallons each. Any vehicles driven or operated within or adjacent to drainages or wetlands shall be checked and maintained daily to prevent leaks. No vehicles or construction equipment shall be stored overnight within 100 feet of jurisdictional areas unless drip pans or ground covers are used. In addition, a minimum 25-foot setback shall be observed from the outer edge of all wet meadow and forested/shrub wetland/riparian communities (see Exhibit 4.4-1). Setbacks shall be fenced or flagged before construction occurs in adjacent areas. If a 25 foot buffer is not feasible a reduced setback may be utilized if approved by a qualified biologist.
- Temporary BMPs to capture and contain pollutants generated by concrete construction including lined containment for rinsate to collect runoff from washing concrete delivery trucks and equipment.
- Protective fencing to prevent damage to trees and other vegetation to remain after construction, including tree protection fencing and individual tree protection such as protective casings of wood slats around the bases of trees.
- Temporary BMPs for the containment or removal of drilling spoils generated from construction of bridge foundations and abutments.
- Daily inspection and maintenance of temporary BMPs to ensure proper function. The prime contractor would be required to maintain a daily log of Temporary Construction BMP inspections and keep the log onsite during project construction, available for review by the Central Valley RWQCB and Mariposa County.
- Tree removal activities, including the dropping of trees, would be confined to the construction limit boundaries.

- Construction boundary fencing to limit disturbance and prevent access to areas not under active construction.

44. Mitigation Measure 4.11-2: Install permanent stormwater controls and water quality BMPs. The project applicant shall implement the following stormwater controls and water quality BMPs:

- Best management practices for the containment and isolation of products, and use of non-toxic products whenever possible would reduce the quantity of contaminants exposed to stormwater.
- Recognizing that in some instances it is impossible to isolate all contaminants from stormwater discharges, stormwater controls shall be implemented to reduce the amount of runoff that discharges directly to surface water. Water quality treatment facilities/best management practices (BMPs)/low impact development (LID) measures shall be designed according to the guidance of the California Stormwater Quality Association Stormwater Best Management Practice Handbooks for Construction, for New Development/Redevelopment, and for Industrial and Commercial as well as the Mariposa County Erosion and Sedimentation Policies for Construction Activities and the Specific Plan Topography and Soil Erosion requirements. Final site plans shall illustrate stormwater controls and water quality BMPs as a condition of project approval.
- Storm drainage from on- and offsite impervious surfaces (including roads) shall be collected and routed through specially designed vegetated swales, infiltration trenches, water quality inlets, detention basins, filters, etc. for entrapment of sediment, debris and oils/greases or other identified pollutants. BMPs shall be designed at a minimum in accordance with the Mariposa County Erosion and Sedimentation Policies for Construction Activities and the Specific Plan Topography and Soil Erosion requirements.
- No stormwater controls or BMPs shall be permitted within any identified wetlands area, floodplain, or right-of-way, except as authorized by project approvals.
- All BMPs shall be maintained as required to insure effectiveness. The applicant shall provide for the establishment of vegetation, where specified, by means of proper irrigation. Proof of ongoing maintenance, such as contractual evidence, shall be provided to Mariposa County upon request. Maintenance of these facilities shall be provided by the project owner/permittee. Contractual evidence of a monthly parking lot sweeping and vacuuming, and catch basin cleaning program shall be provided upon request. Failure to do so will be grounds for discretionary permit revocation.

45. Mitigation Measure 4.11-3: Prepare and implement a final drainage report that reduces runoff to pre-project conditions. As part of the project approval process, the applicant

shall submit a Drainage Report prepared by a Registered Civil Engineer that addresses at minimum:

- written text addressing existing conditions,
- the effects of the proposed improvements,
- all appropriate calculations,
- watershed maps,
- changes in flows and patterns, and
- proposed on- and off-site improvements to accommodate flows from the project.

The final Drainage Report shall provide details showing that stormwater run-off shall be reduced to pre-project conditions (no net increase in runoff) through the installation of retention/detention facilities. Retention/detention facilities shall be designed to the satisfaction of the Mariposa County Public Works Department. The County may, after review of the project final drainage report, delete this requirement if it is determined that drainage conditions do not warrant installation of this type of facility. Maintenance of detention facilities by the property owner, or entity responsible for project maintenance shall be required.

No retention/detention facility construction shall be permitted within any identified wetlands area, floodplain, or right-of-way, except as authorized by project approvals.

46. Mitigation Measure 4.11-4: Prepare and implement well monitoring program. DN shall establish a monitoring program for FCMWC Well 1 and shall, at a minimum, include short duration pumping tests to assess production capacity and pumping water levels. These tests shall be completed on a monthly basis during the months of August, September, and October and shall include the following:

- Delaware North shall coordinate with FCMWC to test FCMWC Well 1 once a month during the months of August, September, and October. A qualified well driller, hydrologist or hydrogeologist, approved by the County, shall conduct the testing and provide monitoring reports.
- Each test shall be preceded by a minimum of eight (8) hours of non-operation in FCMWC Well 1.
- A static depth to water measurement shall be collected and recorded following the period of non-operation and preceding the start of the test.
- Following the period of non-operation and collection of the static depth to water measurement, FCMWC Well 1 shall be pumped at the full capacity of the existing pumping equipment for a period of at least four (4) hours.
- Depth to water measurements shall be collected in FCMWC Well 1 throughout the four (4) hour test. Depth to water measurements shall be collected at least every ten (10) minutes throughout the test.
- Production volume and rate measurements shall be collected from the discharge of FCMWC Well 1 at least every ten (10) minutes throughout the test.



- The three Tenaya Lodge wells shall be maintained non-operational for a period of at least four (4) hours prior to the start of the test and shall remain non-operational for the first two (2) hours of the test.
- After the first two (2) hours of the test have elapsed, the Tenaya Lodge wells shall be turned on and allowed to operate at full capacity.
- The production rate and pumping depth to water measurements from FCMWC Well 1 shall be compared to previous test results.
  - This evaluation will compare each test to previous tests, and also compare the first two (2) hours of each test (when the Tenaya Lodge wells are not operating) to the first two (2) hours of previous tests, and the second two (2) hours of each test (when the Tenaya Lodge wells are pumping) to the second two (2) hours of previous tests.
  - The comparisons shall consider specific capacity information for incremental time steps during the test (e. g. every hour) and compare these data to those from the same time step in previous tests.
  - The results of each test shall be compared to the previous tests from that year and to the tests from the same month in previous years.
- A sustained reduction of over ten (10) percent of the capacity of FCMWC Well 1, measured either by a reduction in pumping rate or a reduction in specific capacity, shall trigger the need for implementation of water demand management measures at the Tenaya Cabins, Tenaya Lodge, and Tenaya Cottages. A sustained ten (10) percent reduction shall apply only to decreases in the capacity of the well when compared to prior years. Small seasonal changes in well production capacity are to be expected, and these shall not trigger implementation of water demand management measures.
- Any reduction of over twenty (20) percent of the capacity of FCMWC Well 1, either compared to previous months or the previous year, shall trigger implementation of water demand management measures at the Tenaya Cabins, Tenaya Lodge, and Tenaya Cottages.

This monitoring program shall be initiated as far as possible in advance of completion of project construction. Collection of baseline pumping rate and water level data from FCMWC Well 1 before the project becomes operational will improve the usefulness and reliability of the monitoring data.

The FCMWC Well 1 monitoring program shall be implemented for five (5) years. If there is no defined drought during that five (5) year period, then Delaware North, FCMWC, and Mariposa County may extend the monitoring for a second five (5) year period, not to exceed a total of ten (10) years.

If triggered as a result of the FCMWC Well 1 monitoring program described above, DN shall implement one or more of the following water demand management measures at the Tenaya Cabins, Tenaya Lodge, and Tenaya Cottages to incrementally reduce

groundwater pumping until supplemental monitoring of FCMWC Well 1 shows no residual reduction in the production capacity.

- Adjust operation of the three existing wells in the Tenaya Lodge water system; alternate well pumping so that the Tenaya wells do not pump at the same time.
- Reduce the rates of pumping in three existing wells in the Tenaya Lodge water system.
- Reduce occupancy at the Tenaya Cabins, Tenaya Lodge, and Tenaya Cottages to reduce the total demand for water.
- Install additional water conservation devices throughout the Tenaya Cabins, Tenaya Lodge, and Tenaya Cottages to reduce the total demand for water.

If no agreement is reached between DN and FCMWC, then the mitigation measure requirements established for this monitoring program shall be followed as much as is determined to be possible pursuant to existing easement agreements recorded as Documents No. 932101, No. 932100, and No. 2057098, Mariposa County Records.

47. All project plans submitted for construction permits shall include the delineation of the 100-year floodplain for Big Creek that was completed for the Tenaya Cabins Project as illustrated on Exhibit 4.11-6. of the Draft EIR. The flood plain along Big Creek shall be avoided (unaltered) by the proposed project including construction activities. As indicated on the proposed site plans (Exhibits 3-3 and 3-4 in Chapter 3 of the Draft EIR), all project facilities and related ground disturbance would remain outside the delineated 100-year floodplain. Flood plain delineation boundary location as shown on the plans shall be surveyed and staked in the field by an appropriately qualified professional prior to any site disturbance activities and the staking shall be maintained during the construction.

### ***Geology and Soils***

48. Mitigation Measure 4.10-2: Prepare and implement a stormwater pollution prevention plan. The project applicant shall implement Mitigation Measure 4.11-1, as required in the Final EIR. The project would require coverage by the statewide General Construction Permit. The General Construction Permit requires implementation of BMPs, monitoring of numeric action levels, and adherence to a site-specific Stormwater Pollution Prevention Plan (SWPPP) prepared to address conditions at the site during construction. Therefore, the project applicant shall prepare and implement a SWPPP, as described in Mitigation Measure 4.11-1. The RWQCB and Mariposa Planning Department verification this condition has been met is required prior to and construction grading and/or building.

### ***Air Quality***

49. Prior to the issuance of any building or grading permits, the County Air Pollution Control Officer shall approve the project construction contract specifications shall meet all applicable Air Pollution Control District (APCD) requirements.

50. All fire pits as shown on the approved site plan shall comply with APCD requirements. County Air Pollution Control Officer shall approve plans prior to grading and/or building permit issuance.
51. The final structure design may include appropriately certified woodstoves or LPG-fired decorative fireplaces. All wood-burning devices shall be approved by the County Air Pollution Control Officer prior to the building permit issuance, use or occupancy of the building.
52. All applicable APCD requirements shall be met at pre-building or pre-grading permit issuance, during construction, prior to occupancy, and during operation to the satisfaction of the County Air Pollution Control Officer.
53. Prior to the use or occupancy of any building, the Environmental Health Division Director shall certify that wastewater storage, collection and transmission facilities incorporate appropriate equipment and design so that odors cannot be detected.

#### ***Greenhouse Gas Emissions and Climate Change***

54. Mitigation Measure 4.8-1: Incorporate design features into project to be consistent with the Scoping Plan. To achieve consistency with the California Light-Duty Vehicle Greenhouse Gas Standards, the applicant shall:
  - Install, at a minimum, two on-site electric charging stations for use by guests and employees to encourage use of plug-in electric and hybrid vehicles.

*Prior to issuance of grading or building permit, plans must include the required charging station.*

#### ***Traffic, Access and Circulation***

55. Highway 41 Entrance (Access Segment 1): Prior to the issuance of any building or grading permits, the permit holder shall obtain encroachment permit/s from Caltrans for construction of Highway 41 improvements for the main entrance and secondary emergency access and shall submit a copy of said permit to the Planning Director. The entrance and secondary emergency access road improvements shall be configured to meet Caltrans requirements for acceleration and deceleration distances and turning lane requirements.
56. Prior to the final of the grading or building permit the “subdivision road” (Access Segment 2) shall be improved to a Town Class IV road standard (optional on-street parking and sidewalks are not required). The intersection adjacent Parcel 2, clubhouse and Access Segment 3 may function as a turnaround and/or hammerhead T, provided the turnaround or hammerhead T shall meet County Public Works, County Fire, and CALFIRE requirements.

57. *The Marshall Easement Road (Access Segment 3), from Access Segment 2 to APN 010-390-002 (Marshall Lot), shall be improved to CALFIRE minimum residential driveway requirements. The access easement for this section shall be no less than 40 feet in width and include a public utility easement offered for dedication to the County. The easement shall be shown on the parcel map.*
58. A security gate or equivalent shall be installed at the end of the Access Segment 2 roadway at, or near, the shared intersection of the clubhouse access road and proposed Parcel 2. The gate is intended to provide a security measure to deter guests of the Tenaya Cabins from using the access road that serves the Marshall property and to maintain the traffic circulation on site. The gate shall meet requirements for location, site security and fire/emergency services access and be approved by the County and CALFIRE prior to grading or building permits issuance. Gate location, type and informational gate/roadway usage signage shall be included in plans and shall require approval prior to issuance of grading and or building permit for the project.
59. Access Segment 4: All other internal circulation roadways require County Fire and CALFIRE approval for minimum width, slope, loading and capacity. The County Fire Department and CALFIRE require that the main cabin access loops be a minimum of 20 feet in width to allow for emergency through traffic, with some 14 foot wide sections with turnouts allowed as shown on the approved plans. No roadway easements are required for these internal private roadways.
60. Access Segment 5: A 20-foot wide paved road for secondary emergency access to serve the project is required. The emergency access road shall be improved to meet CALFIRE requirements, and shall be approved by County Fire and CALFIRE prior to building permit issuance. Security measures and gates for this segment shall meet County, CALTRANS (if in highway right-of-way) and CALFIRE requirements.
61. Prior to the use or occupancy of any building, the permit holder shall install "One-way" signs and any other required directional signage on breakaway posts along the one-way segments of the internal roadway system in conformance with the approved signage plan.
62. Prior to the commencement of any road improvements, road construction or other road building or maintenance activities required as a condition of approval for this project after and prior to issuance of any CALTRANS encroachment permit for the required improvements, a consultation meeting with the Public Works Department, the Planning Department, the applicant, the agent, the road contractor, CALTRANS and CALFIRE shall occur. The Agricultural Commissioner, a representative from Pacific Gas & Electric, a representative from the Health Department and a representative from the Mariposa County Resource Conservation District, Fish Camp Mutual Water Company and Picayune Rancheria of Chukchansi Indians shall be invited to attend. Any and all costs associated with the consultation shall be the responsibility of the applicant. The County Engineer shall verify that this condition has been met prior to issuance of any encroachment permit required for this project and prior to the scheduling of any on-site inspections of road improvements.

63. All grading and road improvement work required as a condition of approval of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein.
64. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of approval for this project. If engineered improvement plans are required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements.
65. All grading and road improvement work required as a condition of approval of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvement required as a condition of approval for this project. If engineered improvement plans are required, the plan shall be approved by the County Engineer prior to commencement of construction work on the required road improvements.
66. Immediately upon completion of the required road and encroachment improvements, the applicant shall re-vegetate all exposed soils and install other erosion control as recommended by the Resource Conservation District (RCD). The applicant shall also contact the RCD for an inspection. Inspection fees shall be the responsibility of the applicant. A letter shall be submitted to the County Surveyor by RCD stating that the re-vegetation and erosion control provisions have been completed prior to the filing of the final map and or prior to building permit final.
67. Prior to building permit final for the cabins construction, all applicable State Fire Safe Regulations shall be met, including construction of roadways, cul-de-sac (or hammerhead T) turnarounds, road naming and signage. A letter shall be submitted to the County Surveyor and Planning Director by CALFIRE stating this condition has been met.
68. Prior to the commencement of any road construction activities, the project proponent shall obtain from the Regional Water Quality Control Board (RWQCB) a General Permit for Discharges of Storm Water Associated with Construction Activity, unless it can be shown to the satisfaction of the Mariposa County Planning Director through evidence submitted by a qualified person, such as a licensed land surveyor or registered civil engineer, that less than one acre of land will be disturbed to implement the project. A copy of the approved permit or evidence that a permit is not required shall be submitted to the Mariposa County Public Works Department by the project proponent prior to the pre-construction consultation meeting required in these conditions of approval. If a permit is required, all provisions and requirements of the permit shall be completed prior to filing of the final map and/or building permit final for the cabins. The proponent shall submit to the County Surveyor evidence that the permit requirements have been met to the satisfaction of the RWQCB.

***Aesthetics***

69. No changes to the approved site plan, exterior design, color, or materials of any structure or landscaping shall be permitted without review by and written approval of the Planning Director pursuant to applicable conditions for the project.
70. Prior to the issuance of any building or grading permits, the permit holder shall cause to be prepared by a certified arborist or landscape architect appropriately licensed by the state of California a tree survey of areas to be affected by site development to locate and define the number and size of mature trees proposed to be removed. Mature trees with a breast height diameter of six inches or greater proposed to be removed shall be indicated on final site plans. The plan for mature trees shall be based upon accepted industry standards. The Plan shall specify that replacement trees for removed mature trees shall be a minimum size of 15 gallons. In conducting the review of the plans, the Planning Director shall apply County of Mariposa's Scenic Highway Overlay Zone Standards.
71. Site landscaping plans are required and shall be prepared by a licensed landscape architect. All species must be native species. Landscaping plans must meet County of Mariposa Scenic Highway Overlay Zone standards. Landscaping irrigation must comply with the State Model Water Efficient Landscape ordinance. Planning Director Approval is required of conceptual landscaping plans prior to grading permit issuance and final landscape plans required prior to building permit issuance.
72. Mitigation Measure 4.14-1: Provide Vegetative Screening. If tree die-off occurs on the project site to the extent that the visibility of built structures becomes prominent, as determined by the County, the applicant/operator shall plant a visual screen that effectively mutes the visibility. A planting plan shall be prepared by a landscape architect and be approved by the County; it shall use native tree and vegetation species and shall identify the sizes of plantings. Plantings shall be irrigated with recycled water and monitored for establishment for five (5) years. If plantings die, they shall be replaced on a one-to-one ratio until established. Irrigation shall meet the 2015 Model Water Efficient Landscape Ordinance (CCR Title 23, Chapter 2.7), as verified by Mariposa County.
73. All on-site lighting fixtures shall be designed to be in compliance with the model lighting code developed by the International Dark Sky Association and shall be approved by the Planning Director prior to the installation of any fixtures. The Director may require plan review by a lighting specialist to ensure condition compliance. Applicant shall pay all costs associated with this review.
74. Prior to building permit issuance project plans must be submitted and approved by the Planning Director that include the architectural elevations, color types and materials of the proposed cabins and the clubhouse structures. The proposed architectural features must include color themes of earth tones, standing seam metal roof material, exposed beams along porches and eave overhang features that are associated with mountain cabin design as are depicted in the proposed plans (as approved) and this includes the architectural elevations included in the EIR Appendix A project plan set.

75. Site security elements that may include split rail fencing shall be approved by the Planning Director prior to grading or building permit issuance. The purpose of the required site security elements is to keep guests on-site.

***Cultural and Historical Resources***

76. Mitigation Measure 4.5-1a: Conduct archaeological monitoring outside of P 22 594/CA-MRP-280/H. Archaeological monitoring will be conducted in areas outside of site P-22-594/CA-MRP-280/H where there is likelihood that archaeological remains may be discovered but where those remains are not visible on the surface (per the confidential Cultural Resources Assessment on file at the county). Where necessary, the project proponent will seek Native American input and consultation.

77. Mitigation Measure 4.5-1b: Stop work in the event of an archaeological discovery outside of P 22 594/CA-MRP-280/H. If potentially significant cultural resources are discovered outside of site P-22-594/CA-MRP-280/H during ground-disturbing activities associated with individual project preparation, construction, or completion, the project proponent will require the construction contractor to stop work in that area until a qualified archaeologist can assess the significance of the find, and, if necessary, develop appropriate treatment measures in consultation with appropriate agencies and interested parties. A qualified archaeologist will follow accepted professional standards in recording any find including submittal of the standard California Department of Parks and Recreation (DPR) Primary Record forms (Form DPR 523) and location information to the California Historical Resources Information Center office (Central California Information Center) for California projects. The consulting archaeologist will also evaluate such resources for significance per CRHR eligibility criteria (PRC Section 5024.1; Title 14 CCR Section 4852).

If the archaeologist determines that the find does contain temporally diagnostic materials and does not meet the CRHR standards of significance for cultural resources, construction may proceed. If the archaeologist determines that further information is needed to evaluate significance, the lead agency will be notified and a data recovery plan will be prepared.

78. Mitigation Measure 4.5-2: Stop work if human remains are discovered. California law recognizes the need to protect Native American human burials, skeletal remains, and items associated with Native American burials from vandalism and inadvertent destruction. The procedures for the treatment of Native American human remains are contained in California Health and Safety Code Sections 7050.5 and 7052 and California Public Resources Code Section 5097.

If human remains are discovered during any demolition/construction activities, potentially damaging ground-disturbing activities in the area of the remains shall be halted immediately, and the project applicant shall notify the Mariposa County coroner and the NAHC immediately, according to Section 5097.98 of the State Public Resources Code and Section 7050.5 of California's Health and Safety Code. If the remains are determined by the NAHC to be Native American, the guidelines of the

NAHC shall be adhered to in the treatment and disposition of the remains. The project applicant shall also retain a professional archaeologist with Native American burial experience to conduct a field investigation of the specific site and consult with the Most Likely Descendant (MLD), if any, identified by the NAHC. Following the coroner's findings, the archaeologist, and the NAHC-designated MLD shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities for acting upon notification of a discovery of Native American human remains are identified in California Public Resources Code Section 5097.94.

79. Mitigation Measure 4.5-4: Memorialize the cultural values of the project site through public education. Delaware North, the project applicant, shall further consult with the Picayune Rancheria of the Chukchansi Indians to plan, design, agree on the content, and implement the following:

- a. Cultural Resource Interpretative Program (Program) for the Tenaya Cabins Project site, which shall include:
  - i. cultural resource interpretive display(s) inside the clubhouse,
  - ii. cultural resource seminar(s) or workshop(s) for interested groups, and/or
  - iii. cultural resource brochures and/or handouts for the patrons and public.

The primary goal of the Program shall be to educate the public on the cultural history of the Fish Camp area, particularly the Chukchansi Indians and their history in the region, as well as the significance of environmental resources to their culture.

The agreement for the Tenaya Cabins Cultural Resource Interpretive Program between the Tribe and Delaware North shall be submitted to, and approved by the County Planning Director prior to the issuance of a grading or building permit for the project. The Program shall define the location, material type(s), and dimensions of any/all displays proposed. The Program shall establish the themes, text, and images for all displays and brochures. The agreement shall define the financial obligation of Delaware North related to the display(s) and brochures/handouts and their maintenance. Delaware North shall make space available for cultural resource seminars/workshops, but shall not be financially responsible for their implementation. The Cultural Resource Interpretive Program agreement shall be submitted to, and approved by, the Planning Director. The County shall be responsible for verification of installation of interpretive display(s) and brochure(s) prior to the certificate of occupancy of project clubhouse or cabins.

### **Noise**

80. Mitigation Measure 4.9-2: Reduce noise exposure to sensitive receptors from new stationary noise sources. The project applicant shall implement the following measures to reduce the effect of noise levels generated by onsite stationary noise sources:



- Routine testing and preventive maintenance of the emergency diesel generator shall be conducted during the less sensitive daytime-business hours (i.e., 7:00 a.m. to 5:00 p.m.). The generator shall be equipped with noise control (e.g., muffler) devices in accordance with manufacturers' specifications.
- External mechanical equipment, including the diesel powered emergency generator, shall incorporate features designed to reduce noise emissions below the County stationary noise requirements (i.e., 55 dB Leq during daytime hours and 45 dB Leq during nighttime hours). These features may include, but are not limited to, locating equipment within equipment rooms or enclosures that incorporate noise reduction features, such as acoustical louvers, and exhaust and intake silencers. Equipment enclosures shall be oriented so that major openings (i.e., intake louvers, exhaust) are directed away from nearby noise-sensitive receptors.
- The clubhouse speaker system shall be located, oriented, and calibrated so that it operates at noise levels that do not exceed County requirements (i.e., 50 dB Leq during daytime hours and 40 dB Leq during nighttime hours) at any existing or planned sensitive receptor.

To ensure that Mariposa County noise requirements are met for non-transportation noise sources are not exceeded at any nearby sensitive land uses the project applicant shall comply with the following:

- Prior to issuance of any grading or building permits for the project, a site specific noise study shall be submitted by a qualified acoustical engineer addressing County noise performance standards for non-transportation noises at the surrounding off-site sensitive receptors within 800 feet of the project site.
- A qualified acoustic specialist shall be selected by the County and hired at the project applicant's expense to verify the effectiveness of all noise reduction measures. The noise study shall use approved calculation methodologies and include recommendations and measures to ensure compliance with County requirements. A copy of the report shall be filed with the County and copies shall be provided to all off-site residential receptors located within 800 feet of the project site. If through this mitigation measure it is determined that the reduction of sound at the surrounding sensitive receptors associated with the implementation of mitigation measures is not sufficient to comply with County requirements, then the stationary noise source shall not be permitted.
- As part of the site-specific noise study, the applicant shall assess the level of noise generated by the clubhouse speaker system to ensure that it does not exceed County requirements (i.e., 50 dB Leq during daytime hours and 40 dB Leq during nighttime hours) at any sensitive receptor. The speaker locations and settings shall be reviewed and approved by the County. The clubhouse speaker system shall be recalibrated once a year to ensure that it continues to operate in compliance with the County requirements. The results of the

calibration, including monitored noise levels, shall be provided to the County. If an exceedance of County standards occurs, the speaker system shall be recalibrated, volumes shall be lowered if necessary, and the system shall be re-reviewed by the County to demonstrate compliance.

81. Mitigation Measure 4.9-4: Restrict construction hours and apply noise-reducing mufflers to construction equipment. The County shall require the applicant to implement the following noise reduction measures during construction activities:

- All construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. for Monday through Friday and 9:00 a.m. to 8:00 p.m. on weekends and legal holidays.
- All construction equipment shall be properly maintained and equipped with noise-reduction intake and exhaust mufflers and engine shrouds, in accordance with manufacturer recommendations. Equipment engine shrouds shall be closed during equipment operation.

82. A notice shall be placed in all cabins and in and around the clubhouse, in media and signage prepared for guests stating, to the effect and not necessarily in these words, "In respect for residential neighbors, no radios or other forms of amplified music are allowed outside between the hours of 10:00 p.m. and 7:00 a.m.". Signage, media and/or plans shall be submitted in draft prior to building permit issuance and shall be installed and required prior to building permit final.

### ***Housing***

83. A housing market analysis for employee housing shall be submitted to and approved by the Planning Director prior to building permit issuance. The analysis shall include recommendations for the DN employee housing programs to address housing needs resulting from this project. If it is found by the analysis that additional employee housing units are required, then provisions for meeting the housing needs shall be required and established prior to building permit final. Analysis must be prepared by an appropriately qualified individual as approved by the Planning Director.

### ***Site Security***

84. *A site security, signage and media program plan shall be submitted for Planning Director approval prior to the issuance of grading and/or building permit. The program shall show roadways, walkways, parking and site boundaries. Methods to identify the physical boundaries of the site or the physical limits of guest access areas shall be proposed. Allowable methods include, but are not limited to, split rail fencing or wooden fencing.*

### ***Recommended LDA 2014-165 Conditions***

85. The land division approval is valid for a period of three years from \_\_\_\_\_, 2017.

This approval shall expire on \_\_\_\_\_, 2020. An extension of time may be granted, if a complete time extension application is submitted prior to the expiration date.

86. The project proposes the Tenaya Lodge public drinking water system serve both subdivision parcels. Delaware North or its successors in interest shall be responsible for maintaining the water system that serves the project. The property owner of proposed Parcel 2 of the subdivision shall pay their fair share for costs of the service.

A disclosure shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map or shall be included on an additional map sheet which indicates its relationship to the parcel map. The statement shall be as follows:

“This notice is not intended to affect record title interest. Parcel 2 as shown on the Parcel Map for \_\_\_\_\_, recorded in Book \_\_\_\_\_ of Parcel Maps at Page \_\_\_\_\_, Mariposa County Records, is served by the Tenaya Lodge Public Water System and the property owner shall pay their fair share for the water service provided by Delaware North or their successors in interest.”

87. The project proposes the Tenaya Lodge Waste Water treatment facility serve both subdivision parcels. Delaware North or its successors in interest shall be responsible for maintaining the waste water treatment system that serves the project. The property owner of proposed Parcel 2 of the subdivision shall pay their fair share for costs of the service. A disclosure shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map or shall be included on an additional map sheet which indicates its relationship to the parcel map. The statement shall be as follows

“This notice is not intended to affect record title interest. Parcel 2 as shown on the Parcel Map for \_\_\_\_\_, recorded in Book \_\_\_\_\_ of Parcel Maps at Page \_\_\_\_\_, Mariposa County Records, is served by the Tenaya Lodge Waste Water Treatment system and the property owner shall pay their fair share for the waste water treatment service provided by Delaware North or their successors in interest.”

88. Access Segment 1: Prior to any work, the permit holder shall obtain an encroachment permit/s from Caltrans for construction of the Highway 41 access improvements for the main entrance and secondary emergency access and shall submit a copy of the permit to the Planning Director. The entrance and secondary emergency access road improvements shall be configured to meet Caltrans’ requirements for acceleration and deceleration distances and turning lane requirements.

89. Prior to the filing of the parcel map, Access Segment 2 shall be improved to a Town Class IV road standard (on-street parking and sidewalks are not required). The intersection adjacent to Parcel 2, the clubhouse and Access Segment 3 may function as a turnaround and/or hammerhead-T, provided the turnaround or hammerhead T meets County Public Works, County Fire, and CALFIRE requirements.

90. A variable width easement to accommodate all required improvements for Access Segment 2, including easement sufficient to accommodate a turnaround, shall be provided and shown on the map to encompass the required road and turnaround improvements. Additional easement width may be required to encompass the required road improvements, including turnouts and associated cuts and fills, in accordance with the County Improvement Standards and Road Improvement and Circulation Policy. The easements shall be offered for dedication to the County of Mariposa. The offers of dedication shall be non-revocable and specifically state the dedications are for "public road and utility purposes."
91. A security gate or equivalent shall be installed at the end of paved subdivision Access Segment 2 roadway at, or near, the shared intersection of the clubhouse access road and proposed Parcel 2. The gate is intended to provide a security measure to deter guests of the Tenaya Cabins from using the access road that serves the Marshall property and maintain the traffic circulation on site. The gate shall meet requirements for location, site security and fire/emergency services access and be approved by the County and CALFIRE prior to grading or building permits issuance. Gate location, type and informational gate/roadway usage signage shall be included in plans and require approval prior to issuance of grading and or building permit for the project.
92. Access Segment 2 shall be named in accordance with the criteria of County Resolution No. 92-541. A Road Name Request application shall be submitted to the Planning Department and approved by the Board of Supervisors. Approval of the road names shall be tentative, until the map is filed. The name of the road shall be shown on the final map.
93. Access Segment 5: A 20-foot wide paved road for secondary emergency access to serve the project is required and shall be improved to meet minimum CALFIRE requirements. The emergency road improvements shall be approved by County Fire and CALFIRE prior to building permit issuance. Security measures and gates for this segment shall meet County, CALTRANS (if in highway right-of-way) and CALFIRE requirements.
94. Access Segment 2 is proposed to serve both subdivision parcels. Delaware North or its successors in interest shall be responsible for maintaining the road. The property owner of proposed Parcel 2 of the subdivision shall pay their fair share for costs of the maintenance. A disclosure shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map or shall be included on an additional map sheet which indicates its relationship to the parcel map. The statement shall be as follows:

"This notice is not intended to affect record title interest. Parcel 2 as shown on the Parcel Map for \_\_\_\_\_, recorded in Book \_\_\_\_\_ of Parcel Maps at Page \_\_\_\_\_, Mariposa County Records, shall pay their fair share of maintenance for the subdivision access road provided by Delaware North or their successor in interest for the provision of the road maintenance".

95. Prior to the commencement of any road improvements, road construction or other road building or maintenance activities required as a condition of approval for this project after and prior to issuance of any CALTRANS encroachment permit for the required improvements, a consultation meeting with the Public Works Department, the Planning Department, the applicant, the agent, the road contractor, CALTRANS and CALFIRE shall occur. The Agricultural Commissioner, a representative from Pacific Gas & Electric, a representative from the Health Department and a representative from the Mariposa County Resource Conservation District, Fish Camp Mutual water Company and Picayune Rancheria of Chukchansi Indians shall be invited to attend. Any and all costs associated with the consultation shall be the responsibility of the applicant. The County engineer shall verify that this condition has been met prior to issuance of any encroachment permit required for this project and prior to the scheduling of any on-site inspections of road improvements.
96. All grading and road improvement work required as a condition of approval of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein.
97. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of approval for this project. If engineered improvement plans are required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements.
98. All grading and road improvement work required as a condition of approval of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvement required as a condition of approval for this project. If engineered improvement plans are required, the plan shall be approved by the County Engineer prior to commencement of construction work on the required road improvements.
99. Immediately upon completion of the required road and encroachment improvements, the applicant shall re-vegetate all exposed soils and install other erosion control as recommended by the Resource Conservation District (RCD). The applicant shall also contact the RCD for an inspection. Inspection fees shall be the responsibility of the applicant. A letter shall be submitted to the County Surveyor by RCD stating that the re-vegetation and erosion control provisions have been completed prior to the filing of the final map.
100. All cut and fill areas required for the construction of the proposed access road shall be included within the access easement pursuant to the County Improvement Standards, which may necessitate a variable width easement greater than 60 feet in width. The location, width, and description of the easements shall be approved by the County Engineer.

101. Prior to filing of the final map, all applicable State Fire Safe Regulations shall be met, including construction of roadways, cul-de-sac (or hammerhead-T) turnaround, road naming and signage. A letter shall be submitted to the County Surveyor and Planning Director by CALFIRE stating this condition has been met.
102. Prior to the commencement of any easement road construction activities, the project proponent shall obtain from the Regional Water Quality Control Board (RWQCB) a General Permit for Discharges of Storm Water Associated with Construction Activity, unless it can be shown to the satisfaction of the Mariposa County Planning Director through evidence submitted by a qualified person, such as a licensed land surveyor or registered civil engineer, that less than one acre of land will be disturbed to implement the project. A copy of the approved permit or evidence that a permit is not required shall be submitted to the Mariposa County Public Works Department by the project proponent prior to the pre-construction consultation meeting required in these conditions of approval. If a permit is required, all provisions and requirements of the permit shall be completed prior to filing of the final map. The proponent shall submit to the County Surveyor evidence that the permit requirements have been met to the satisfaction of the RWQCB.

***Additional Conditions - Applicable to General Plan/Specific Plan Zoning Amendment (GP/SPZA No. 2014-163), Land Division (LDA No. 2014-165), and Conditional Use Permit (CUP No. 2014-164)***

103. *As proposed by the applicant, the conduct of the Bohna Ranch cattle drive through the property (occurs two times per year) may continue, with all necessary coordination between the ranch manager and the Tenaya Lodge management to occur a minimum of two (2) weeks prior to the drive. It shall be the responsibility of the rancher to coordinate with Tenaya Lodge management and to comply with Tenaya Lodge requirements for the event.*
104. *Any Housing and Community Development (HCD) permits or approvals that may be required for the proposed cabin structures shall be obtained by the applicant. Planning Director verification that this condition has been met shall be required prior to grading or building permit issuance.*
105. The Property Owner (Owner) shall indemnify, protect, defend, and hold harmless the County, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the County, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, any approval of the County, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the County, concerning the project and the approvals granted herein. Actions concerning the project and approvals granted shall include, but not be limited to, the environmental determination made pursuant to the California Environmental Quality Act (CEQA). Furthermore, Owner shall indemnify, protect, defend, and hold harmless the County, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or

judgments against another governmental entity in which Owner's project is subject to that other governmental entity's approval and a condition of such approval is that the County indemnify and defend such governmental entity. County shall promptly notify the Owner of any claim, action, or proceeding. County will further cooperate in the defense of the action.

An agreement on a form approved by Mariposa County Counsel shall be executed within twenty (20) working days of the date of project action. Non-compliance with this condition may result in revocation of project approval by the county.

106. Prior to filing of the final map or issuance of permits, all fees associated with the County's processing of the map and filing of associated CEQA documents (applicable to land division, general plan/specific plan amendment and conditional use permit) shall be paid. The Department of Fish and Wildlife CEQA filing fee (\$3078.25 as of January 1, 2017) and County Clerk fee (\$50 as of January 1, 2017) shall be paid by the applicant within five (5) working days of the approval of the application (by Friday, \_\_\_\_\_, 2017, because if the fee is not paid within 5 working days, and the Notice of Determination is not filed with the County Clerk prior to close of business on Friday, \_\_\_\_\_, 2017 the environmental determination is not operative, vested, or final (Section 21089(b) Public Resources Code).

The County Clerk requires that one check be submitted to cover both of these fees, for a total of **\$3128.25** (effective January 1, 2017), and that it be in the form of a cashier's check or money order payable to "Mariposa County;" The County Clerk will not accept a personal check for these fees. Submit the check to Mariposa Planning who will file this fee and other required documents with the County Clerk.

NOTE: The filing fees are adjusted annually, effective January 1st of each year, pursuant to Fish and Game Code.

**Attachments:**

- A. Vicinity Map
- B. Project Plans & Tentative Map
- C. Draft EIR
- D. Final EIR & Revised Appendix J
- E. Access and Road Exhibit
- F. Marshall Easement/Deed Correspondence
- G. CEQA Findings of Fact and MMRP
- H. Alternate Lift Station Site Plan
- I. Correspondence Received
- J. Draft Planning Commission Resolution