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Via postal mail and email to mdraper@mono.ca.gov

Wendy Sugimura, Director

Michael Draper

Mono County Community Development Department

PO Box 347

Mammoth Lakes, CA 93546

Re: Comments on the Subsequent Environmental Impact Report and Specific Plan for the Tioga Inn Project

Dear Director Sugimura and Mr. Draper,

The Mono Lake Committee is writing to provide comments on the scope and content of the Draft Subsequent Environmental Impact Report (DSEIR) for the Tioga Inn Project (Project).

I. Introduction

The Mono Lake Committee (MLC) is a non-profit citizen's group dedicated to protecting and restoring the Mono Basin ecosystem, educating the public about Mono Lake and the impacts on the environment of excessive water use, and promoting cooperative solutions that protect Mono Lake and meet real water needs without transferring environmental problems to other areas. Founded in 1978 and headquartered in Lee Vining, the Committee is supported by 16,000 members who are passionate about Mono Lake and the natural features of Mono County. MLC has played a significant role in achieving the ecological and scenic protections that are in place today for Mono Lake, its tributary streams, and surrounding lands, forming a foundation for the Mono Basin's vibrant tourism-based economy.

Scoping for the expansion of the Tioga Inn specific plan took place in 2016 and, along with many others, MLC provided a detailed comment letter dated November 21, 2016. During the subsequent two and half years the Project expansion was reshaped in response to concerns; for example, the proposed third story of the hotel was abandoned, presumably in response to fire safety concerns and visual impacts identified during scoping.

Unfortunately, proposal modifications were not made to address the visual impacts of the proposed expansion of the site development footprint onto the highly visible ridgeline at the east side of the property, 40+ feet higher than the existing development and located prominently above Highway 395 and boldly within scenic views from South Tufa and other popular visitor destinations at the Mono Lake Tufa State Natural Reserve and Mono Basin National Forest Scenic Area. As a result the Project studied in the DSIER continues to create major visual, aesthetic, and wildlife problems—larger, in fact, than those identified during scoping. The DSEIR concludes they are significant and, as proposed, unmitigable.

The problems that would be created by expanding the site development footprint of the Tioga Inn were well identified in 2016. The proposal was not subsequently modified to craft solutions to these problems, leaving the DSEIR to study a constrained set of alternatives and mitigations that are unable to address these issues. As a result, even the DSEIR concludes that the No Project alternative is the only way to avoid serious damage to the scenic assets of Mono Lake, scenic highways, and the gateway to Yosemite National Park.

This means that Mono County decision makers like yourself, the Planning Commission, and the Board of Supervisors are being presented with project alternatives that do not successfully achieve the county's housing and economic goals while preserving the "Wild by Nature" scenic assets that are vital to Mono County's continued prosperity. Indeed, the Project as proposed is in direct conflict with almost every element of Mono County's vision for community development.

Because the visual, scenic, aesthetic, and wildlife concerns MLC raised in 2016 have not been addressed (as well as others) MLC is greatly concerned that decision makers will be confronted with false choices between housing and scenic protection. It doesn't have to be this way, and Mono County deserves better.

MLC knows that better design alternatives exist that could eliminate unacceptable visual impacts and substantially mitigate other impacts of concern. Given that our scoping comments on these topics were not addressed with suitable alternatives and mitigations in the DSEIR, MLC has necessarily asked our legal team at Shute, Mihaly & Weinberger to review the DSEIR and evaluate its adequacy for decision-making. Their letter, submitted under separate cover, identifies significant legal deficiencies that must be addressed by preparation of a comprehensive EIR or, at minimum, the creation of new problem-solving alternatives and mitigations and recirculation of the DSEIR.

MLC is well aware that Mono County has demonstrated a commitment to both following the specific legal requirements of CEQA and to achieving the spirit of the law by daylighting project impacts and crafting and implementing alternatives that preserve the environmental and community integrity of Mono County. More than any other development project in recent years, Mono County needs better alternatives and mitigations to be created for the Tioga Inn Project. A comprehensive EIR, new alternatives and mitigations based on comments and community engagement, and recirculation of the document are a path forward to achieving the high standard Mono County holds itself to—and to providing decision makers with viable options for a project that provides desirable benefits without imposing permanent unacceptable costs on the scenic Mono Basin, Lee Vining community, and Mono County economy.

In this letter MLC reviews the DSEIR and provides comments on the alarming visual and scenic impacts that will result from the Project, as well as other topics including wildlife, water, dark skies, and community plan consistency.

I. Comments on the Tioga Inn DSEIR

A. Visual, aesthetic, and scenic impacts

As noted in the 1993 Final Environmental Impact Report (FEIR), the only unavoidable significant adverse impact identified was the impact on visual resources. The proposed Tioga Inn specific plan amendment expands and intensifies visual impacts outlined in that FEIR and seeks, again, for Mono County to waive consideration of these impacts.

The DSEIR notes that, despite landscaping, construction, and design mitigation to minimize offsite views, the impact to Scenic Resources and Visual Character are a “Significant and Unavoidable Adverse Impact” and that Light and Glare Effects are a “Significant and Unavoidable Adverse Impact.”

MLC concurs with this analysis; however, the analysis should contain more information and analysis in order to describe the full extent of the project’s visual impacts. Finally, the DSEIR does not adequately consider siting and design mitigation or alternatives that could significantly reduce visual impacts.

1. Scenic resources and analysis

The proposed Tioga Inn Project is located at the eastern gateway to Yosemite National Park, adjacent to world-renowned Mono Lake, the congressionally-designated Mono Basin National Forest Scenic Area, Mono Lake Tufa State Natural Reserve, and neighboring the small, rural, community of Lee Vining. This project, as proposed, has the potential to propagate “Significant and Unavoidable Adverse Impacts” well beyond the Mono Basin when considering the economic connection with Mono County and the nationally significant profile of this Mono Lake and Yosemite gateway community.

The Mono County Economic Development, Tourism & Film Commission recently updated its visitor survey results based on a 2018 tourism study and presentation by Mono County consultant Lauren Schlau at the June Lake Community Center in June 2019. According to Ms. Schlau, Mono Lake is now the overall #1 attraction in Mono County with the largest share of “Total Visitors” at 43.2% and Mono County enjoys “high visitor satisfaction” mostly due to “scenic beauty perception.” The recognition that Mono Lake is now the overall #1 attraction in Mono County is an important, additional consideration in appreciating the extent of the scenic value placed on Mono Lake for all of Mono County.

The State Scenic Highway 395 which runs from Walker, California to the Inyo County line; the eligible State Route 120 and Tioga Pass; the nationally significant eastern gateway to Yosemite National Park; the Mono Basin National Forest Scenic Area, the first congressionally designated Scenic Area in the United States; and the “Wild by Nature” Mono County Tourism marketing of

Mono County all collectively reinforce what is well-established—that the Mono Basin is a location of exceptional visual quality.

The DSEIR states accurately: “In combination with the dramatic Sierra escarpment leading into Yosemite National Park, the otherworldly beauty of Mono Lake is among the outstanding scenic vistas of the world.” However, throughout the document evaluations of visual impact often understate and underscore the effects of the Project on these remarkable and unique scenic vistas.

There is no mention of the Mono Lake Tufa State Natural Reserve within the context of the Scenic Resources. The Mono Lake Tufa State Natural Reserve is a State Park unit as listed in Section 5.5.3.2 under California Department of Parks and Recreation, encompasses the entire surface of Mono Lake, and water-based recreation (kayaking, paddleboarding, etc.) will be affected by the visual impacts, as well as from key locations on State Park land adjacent to Mono Lake. The DSEIR should specifically consider the visual impacts the Project will create within the State Reserve and mitigations. State reserves, as per the California Code, Public Resource Code § 5019.65 (2017):

“...consist of areas embracing outstanding natural or scenic characteristics or areas containing outstanding cultural resources of statewide significance. State reserve units may be established in the terrestrial or nonmarine aquatic (lake or stream) environments of the state and shall be further classified as one of the following types: (a) State natural reserves, consisting of areas selected and managed for the purpose of preserving their native ecological associations, unique faunal or floral characteristics, geological features, and *scenic qualities in a condition of undisturbed integrity*. Resource manipulation shall be restricted to the minimum required to negate the deleterious influence of man.”

2. Visual simulations are insufficient and do not convey the depth of impacts

Photographic exhibits in the DSEIR fail to sufficiently analyze existing site views. As stated in MLC’s Notice of Preparation letter dated November 21, 2016, “Visual simulations should be a major component of the DSEIR so that the true visual impacts can be represented to the public.” The exhibit images do show various site views of the project, but they do not include a view from the amphitheater porch of the Mono Basin National Forest Scenic Area Visitor Center looking south toward the project area. These exhibits also do not include the view from the Mono Lake Tufa State Natural Reserve at the end of the boardwalk below Mono Lake County Park. Further, neither a representative view from Panum Crater, Lee Vining Canyon, or Mono City were included in the analysis.

Further, these images do not fully represent or include primary views that visitors will focus on when they first encounter the Project. For example, visitors to South Tufa do not take photographs or appreciate the view west in the middle of the day at the northeast corner of the South Tufa parking lot, as the DSEIR image does. Visitors typically are drawn down the path to the tufa and the lake where they focus on specific views and photography. The images taken from South Tufa (Mono Lake, tufa, and the Sierra Nevada crest are, by the greatest volume in

media, taken from South Tufa near the water's edge. Image Exhibit 5.12-5 in the DSEIR does not faithfully capture this.

Visual simulations should include three-dimensional models placed in the landscape to accurately portray the views from along the north and south-bound lanes of Highway 395 approaching and exiting Lee Vining. The simulations should also accurately communicate the scope and scale of the project from a wide range of perspectives (hiker and climber views from the Tioga Crest, flights into Lee Vining, etc.) and varied lighting conditions. The simulations should also convey valuable information about the relative height of buildings and the reach of roads and associated development fixtures.

3. Extent of impact on South Tufa, Mono County's iconic destination

South Tufa is the most heavily-visited day-use site at Mono Lake. With an estimated 176,000 visitors in 2018, South Tufa provides access to sweeping views of Mono Lake, unusual tufa towers, and the Sierra Nevada escarpment. Collectively, these elements form an iconic image that is frequently used to represent Mono County, Mono Lake, the Eastern Sierra, the Mono Lake Tufa State Natural Reserve, and the Mono Basin National Forest Scenic Area. This classic image location is highlighted on social media, travel brochures, articles, fine art photography books, calendars, and more, and represents a large volume of Mono Lake images highlighted on social media, including those posted by Mono County Tourism. South Tufa is even highlighted within Mono County's own documents, such as the cover of the Mono Basin Community Plan and on the Mono County Housing Needs and Residential Survey, October 2017.

The proposed Project site exists within these images. The DSEIR does not faithfully analyze the value of this site as a world-class—let alone flagship—Mono County visual resource. Countless visitors and photographers converge at all times of the day and night, in all seasons to experience a nearly completely undisturbed landscape in a wide range of lighting conditions and weather phenomena. There is no doubt, regardless of the distance of the proposed project, that grading scars, a wastewater disposal field and wastewater treatment plant effluent irrigation area, two-story Project lighting, solar panels, and nighttime vehicle travel in and out of the proposed project area will all contribute adversely and significantly to alter the experience of visitors at South Tufa. While the DSEIR acknowledges a “Significant and Unavoidable Adverse Impact” relating to Scenic Resources, Visual Character, and Lighting and Glare effects, the DSIER does not go far enough in describing the extent that these impacts will have for hundreds of thousands to millions of future visitors that value this classic Mono County destination. The diminished value of South Tufa is not easily calculated within the context of the tourism economy, but the DSEIR might consider evaluating the adverse impact here since this location is integral to the identity of Mono County to past and future visitors.

4. Extent of impact on dark sky resources in the Mono Basin

The Mono Basin and the Eastern Sierra region is one of the remaining dark sky locations in California where visitors can appreciate stars and night-sky phenomena as they were seen

hundreds of years ago. Dark skies are a known asset that attract visitors and contribute to the economic success of Lee Vining.

The Mono Basin is particularly vulnerable to new sources of light pollution due to the unspoiled natural light landscape that has no major development projects. The towns of Lee Vining and Mono City are mostly a mix of small and medium-sized buildings, well shielded by mature vegetation, and positioned along the lower elevations of the Mono Basin relative to the new Project proposal.

The Tioga Inn development, and the cumulative impact of the Project will, due to its topographic prominence, size, scope, and position in front of and along the east-facing moraine above Highway 395, produce a more obvious visual distraction, and even cast shadows that a dark-sky adapted recreation observer could perceive at a distance. The project cascades down an elevated, east-facing promontory, extending south-southeast from the current viewpoint flagpole. This siting makes Mono County's dark sky lighting ordinance largely ineffective as shielded light will scatter out and below the development out across the Mono Basin, adding significant distraction where none was present before. Light pollution will be considerably greater than if the project was sited at the same elevation as Lee Vining. The elevated, east-facing position of the housing units, the number of lights necessary for a development of this size, and the night vehicle traffic with headlights that will move in and out of the development will dramatically alter the night sky environment across the entire Mono Basin. A new light source would be directly visible from Mono City, to the north shore of Mono Lake, to the Nevada State Line, Navy Beach, South Tufa, and Panum Crater, and the diffuse glow of the development would reach northbound visitors dropping into the Mono Basin from the south along Highway 395 from the "Sandhouse Grade."

The Mono Basin is a significant destination for night sky enthusiasts and photographers, and annually there are dozens of photography workshops that visit or stay in the Mono Basin to use South Tufa and other Mono Basin destinations. During the summer ranger-led, interpretive star-talk programs take place at South Tufa and hundreds of visitors are introduced to the panorama of the dark sky, many of whom are children, experiencing the true vibrancy of individual stars and the Milky Way for the first time in their lives. The Project will be highly visible, distracting, and alter the experience for future visitors. While there is no doubt that there will be a "Significant and Unavoidable Adverse Impact" on Light and Glare Effects, the DSEIR fails to examine the extent these impacts will have on the visitor experience, tourism, and residents.

5. County Scenic Combining District conflict

The Project is located within the Mono County Scenic Combining District and is subject to the County's requirements (5.12-7). The Project is in conflict with these requirements, and new alternatives and mitigations must be explored to resolve this conflict.

Specifically, in regard to the County's Scenic Combining District Standards for State Scenic Highway 395, the Project is in conflict with Sections B, C, and F.

- Section B states: "*New structures shall be situated on the property where, to the extent feasible, they will be least visible from the state scenic highway. Structures shall be clustered when possible, leaving remaining areas in a natural state, or landscaped to be compatible with the scenic quality of the area.*" The proposed Project will be highly

visible from Highway 395 in south and northbound directions and will break the ridgeline view of the Tioga Crest, in particular, for northbound traffic. New proposed structures are two-story and are not clustered, but instead are designed in a cascading, amphitheater-like siting arrangement that appears to maximize views from the site across the Mono Basin while maximizing the views of the structures from various points in the Mono Basin, including from Highway 395.

- Section C states: *“To the extent feasible new subdivisions shall not create parcels with ridgeline building pad locations.”* The proposed Project creates building pad locations both along the restaurant ridgeline and in an adjacent natural, prominent swale above the highway facing east. This area will be fully built out and graded into the hillside from the ridgeline to the north, and will be situated with sweeping views to and from the project area across the Mono Basin and directly over Highway 395.
- Section F states: *“Light sources in exterior lighting fixtures shall be shielded, down-directed and not visible from State Scenic Highway 395.”* Despite planned compliance with Mono County Dark Sky lighting regulations, the elevated, exposed siting of the project will contribute light pollution downward and across the Mono Basin. Project light sources, including exterior and interior lighting, will be highly visible from Highway 395. The ridgeline location of the Project makes the impacts worse, as downward-facing lighting regulations do little to shield compliant lights placed 100 feet above the highway.

6. Scenic Highway visual impact scoring

The DSEIR conducts a Caltrans Visual Impact Assessment to determine the visual impacts of the project on State Scenic Highway 395 and State Highway 120, the Tioga Road, which Caltrans has highlighted as eligible for Scenic designation and Mono County has designated as a County scenic highway. After review of the Questionnaire and Response in Table 5.12-3 MLC believes the Project was inaccurately evaluated and scored.

Item 1 (“Will the project result in a noticeable change in the physical characteristics of the existing environment?”) should be scored as a “3” instead of a “2” given that “Significant and Unavoidable Adverse Impacts” are attributed to Scenic Resources and Visual Character, Light and Glare Effects. While the discussion mentions low-visibility project items like subsurface irrigation and road alignment, these in no way moderate the “High” score that should be given here due to the proposed construction of two-story buildings on the currently undeveloped ridgeline adjacent to the highway.

Based on community meetings, numerous requests for a comment period extension, the high volume of public comments on the DSEIR, and the significant local concern regarding the proposed Project, item 3 (“What level of local concern is there for the types of project features”) should be scored as “High Concern,” which results in a score of “3.”

Item 6 (“What is the potential that the project proposal will be controversial within the community, or opposed by any organized group?”) should be scored a “3” “Hi Potential.” The high volume of public comments on the DSEIR support this scoring.

Item 8 (“To what degree does the project’s aesthetic approach appear to be consistent with applicable laws, ordinances, regulations, policies or standards?”) should be scored as “3,” “Low Consistency.” The project’s major visual impacts are not consistent with applicable laws, ordinances, regulations or policy standards, and are in fact in conflict with several of them as noted elsewhere in this comment letter.

This revised scoring results in 25 total points for the Visual Assessment. Twenty five points places the Project scoring in the 25–30 point range, indicating “Noticeable visual changes to the environment are proposed. A fully developed VIA is appropriate that includes photo simulations. It is appropriate to alert the Project Development Team to the potential for highly adverse impacts *and to consider project alternatives to avoid those impacts*. See Directions for the Advanced/Complex VIA Annotated Outline.” (emphasis added)

Appendix O, which currently provides a “Minor Level Visual Impact Assessment” should be revised and a “fully developed” Visual Impact Assessment prepared. In addition to addressing the scoring above, this revision will address an apparent problem that the existing Assessment was prepared in June 2018 before the visual analysis of Section 5.12 was completed and the finding of “Significant and Unavoidable Adverse Impacts” was established for Scenic Resources and Visual Character.

As emphasized above, the revised scoring means that the DSEIR should consider project alternatives that avoid these visual impacts. MLC agrees. The DSEIR must be revised to include alternatives that do not impose visual impacts on South Tufa, Mono Lake, and Highway 395.

7. Failure to mitigate aesthetic and visual impacts

The DSEIR concludes that the aesthetic and visual impacts of the project are significant, and our comments above show that the impacts are even greater than shown in the DSEIR. Due to these impacts and others the DESIR concludes that the No Project alternative is environmentally superior.

Surprisingly, the DSEIR does not contain well-developed alternatives and mitigations to solve these impact problems. This is a serious failing, as CEQA requires the document to contain feasible mitigation measures and alternatives to lessen or avoid such impacts, a topic covered in the accompanying letter from Shute, Mihaly & Weinberger. This poses a serious practical problem as well for Mono County: how are decision makers supposed to do their job when no alternatives that mitigate these visual impacts are provided for their consideration? The purpose of CEQA is to provide for informed decision making. The Project analysis should be redone and recirculated to include new alternatives and mitigations that solve these impacts. To assist in this effort MLC provides suggested measures later in this letter.

B. Hydrology and Project water supplies

1. Project water demand

Total annual water demand for the Project and the FEIR approval is not clearly delineated, and the “worst case” maximum daily demand further clouds the water consumption projected in the DSEIR. Two different figures are offered—40,800 gallons per day (gpd) and 60,000 gpd. The analysis should consider the total annual “worst case” or maximum potential use annually for both the FEIR and the Project. It is unclear as written at 5.2-20 how the Waste Water Treatment Package will simultaneously create an additional 50% demand while at the same time assuaging irrigation demand through subsurface irrigation.

This is an area where a LEED-certified design alternative would greatly assist with water efficiency and distribution on the property. This approach, adjacent to Mono Lake, and at the north end of the Los Angeles Aqueduct, would make a strong and thoughtful statement about how the landowner, Mono County, and California thinks about water efficiency. While the Project as a whole will be “efficient” in terms of recent building code and design standards, this is merely the baseline required for a development of this size in a situation where it is not connected to an urban supply or wastewater system. LEED certification, or at the very least, a design alternative that goes out of its way to demonstrate water efficiency, on-site treatment, and groundwater recharge at a higher design standard than the baseline, would enhance the value of this Project for Mono County, the Mono Basin National Forest Scenic Area, and the Eastern Sierra.

2. Groundwater impacts on Lee Vining Creek and downslope springs

New California State Water Resources Control Board-mandated Stream Ecosystem Flows (SEFs) for Lee Vining Creek began in 2019 in order to better mimic the natural hydrograph in accordance with State Water Board-mandated stream restoration. These flows are supported by Mono Lake Committee, Los Angeles Department of Water & Power, California Department of Fish and Wildlife, and California Trout. The new flows are part of a larger settlement agreement, under the guidance of the State Water Board. In conjunction with the SEFs, winter base flows are reduced compared to previous flow regimes in Lee Vining Creek. The relevance of the DSEIR calculations converting the 0.23 cubic feet per second (cfs) daily effect on Lee Vining Creek into an annual percentage based on a 25 cfs flow are now obsolete. Pump test analysis and peer review should be reconsidered in light of this change. Lee Vining Creek can now fall between 10 cfs and 16 cfs for six months of the year from October through March (note the 25 cfs daily required minimum flow in Table 5.2-6), depending on year-type and Southern California Edison operations upstream. Consequently, the estimated potential effect on Lee Vining Creek is flawed. The study needs to take the decades-long efforts to restore the creek into consideration and be recalculated and analyzed for potential mitigation.

The lower reach of Lee Vining Creek is a transition zone between a gaining stream and a losing stream. Groundwater pumping could convert the reach from gaining to losing depending on pumping and season. This has implications for water temperatures (loss of gaining cooler groundwater) if the gaining/losing boundary moves significantly upstream. Studies of the Walker River have used fiber optic cables to measure water temperatures linearly along the river and

determine gaining/losing reaches. A similar study should be initiated because water temperature influences water quality (e.g. dissolved oxygen) and fishery conditions.

The actual impact to Lee Vining Creek would be determined by the change in the gradient of the groundwater surface elevation adjacent to the creek. Additional monitoring wells are needed to determine what the effect would be.

The cone of depression created by the wells is along the path between subsurface flow from the creek and the spring-fed tufa towers of Lee Vining Tufa. There is no discussion or analysis of the potential effect on down-gradient springs and wetlands at Mono Lake within the Mono Lake Tufa State Natural Reserve.

In summary, a more thorough and detailed area hydrologic analysis, beyond the pump test, is necessary to determine the impacts to winter flows in Lee Vining Creek and any downslope impacts on spring production, wetlands, and tufa formation at Lee Vining Tufa.

3. Groundwater impacts on neighboring properties

MLC is aware of concern in the community regarding impacts on wells on neighboring properties, in particular parcels 021130043 and 021130044. The existing Mobil Mart has reportedly had such impacts, and the significant proposed expansion could potentially cause serious problems with water supply at these residences. The document does not analyze this situation; an analysis should be conducted and possible mitigation, such as improving wells on neighboring property, presented if necessary.

4. Drainage and erosion

Page 5.2-18 states the design storm for stormwater facilities is 1 inch in 1 hour (20-year rainstorm). What happens to the stormwater from storms that exceed this rain rate? Page 5.2-18 goes on to say “all other flows will be allowed to enter drainages that flow to Mono Lake.” The paths of these flows must be disclosed. When the stormwater exceeds the systems’ capacity (especially the retention system on the steeper slope), does it erode the slopes below and flow across highways? An acceptable method of conveying water from larger events must be incorporated into the plan/design. These extreme events are becoming more common, they will happen, and must be planned for.

Page 5.2-19 states, “It must be demonstrated that the stormwater system is designed in such a way that when the retention capacity is exceeded, runoff leaves the site in keeping with pre-project drainage patterns, and will not cause the design capacities of any downstream drainage facilities to be exceeded,” however, those designs and calculations are not disclosed.

C. Biological Resources

The proposed siting and scope of the Project will be detrimental to the Casa Diablo Mule Deer herd. This herd is already impacted and constrained by the existing Mobil Mart, deli, and projected hotel and restaurant development. While deer regularly visit the Mobil Mart lawn and

can often be observed nibbling aspen leaves next to the building and grazing on lawns and landscape around the existing residential housing, these animals can currently safely retreat into surrounding sagebrush scrub and navigate substantial open space to the south. The original 1993 approval process found that there would be significant unmitigated impacts on the deer and the Specific Plan was allowed to proceed. Here the Project asks for more and proposes to add new, significant and unmitigated impacts on deer.

1. Extent of impacts on Mule Deer

Future development will further fragment and restrict mule deer habitat with additional roads and parking. Visitors' and residents' vehicles and pets, and residents traveling to and from workforce housing will force deer to scatter more readily, increasing vehicle impacts with deer on-site, despite the designation of "Open Space—Preserve" as shown in Exhibit 5.3-6. The designation of roadways as "Open Space—Facilities" appears to be an empty designation in regard to the protection of deer. While not a vertical obstacle to deer, paved roadways do create an open, unnatural barrier that deer are more hesitant to cross, and the traffic along these roads poses a significant hazard for the animals, even at lower speeds.

The deer issue at Convict Lake Resort poses an interesting comparison that should be analyzed for the Tioga Inn. At the Convict Lake Resort restaurant, lodging, and employee housing site deer encounter roads, buildings, and other human-constructed obstacles, but also find artificially placed lawns, aspen trees, and other landscaping forage. Deer linger, grow habituated to humans, and are occasionally hand-fed and encouraged by human activity. Deer become increasingly docile, lose fear of motor vehicles, and are easily hit on roads when surprised by evening traffic/headlights or chased into roadways by the occasional off-leash dog.

Deer will be increasingly constrained by the current proposed Project, yet it is also likely they will encounter additional forage opportunities. This difficult and unnatural situation may benefit some deer, but the overall effect could potentially lead to additional vehicle impacts with these animals along Highway 120, Highway 395, and within the project area as deer loiter unnaturally close to human activity and on roads. As the DSEIR states in Section 5.3.5, "Operation of the new workforce housing facilities could have impacts that will reach beyond the construction footprint, mainly due to expected changes and increases in human activity." A reasonable attempt to anticipate and analyze these impacts must be made.

2. Mitigation BIO 5.3(a-5) (Pet Enclosure, Pet Leashing, Eviction for Noncompliance)

This mitigation measure is impractical to enforce unless the lead agency can enforce or intervene directly. Both visitors and residents will have pets that occasionally escape. The site manager will not have eyes on up to 294 residents and their pets at all times. Concurrently, visitors and residents will be unable to be vigilant 100% of the time regarding pet restraint. There is no way to monitor compliance by the proponent in terms of effective pet restraint, nor is there any specific monitoring or oversight by the lead agency that would ensure compliance with this mitigation. The DSEIR states in 5.3.5, "Domestic pets, especially dogs and cats, are expected

with the new housing tenancy. It is unrealistic to expect that these animals will be restrained, and wandering pets potentially will be an important new predatory limitation that is imposed on the environment stretching for some distance beyond the project footprint... Dogs could harass terrestrial wildlife including American badger and mule deer, and cause increased crossings and potential for collision at US 395.”

3. Mitigation BIO 5.3(d-3) (Protected Corridor along US 395)

This is deferred mitigation with no performance standards to evaluate its success. There is no monitoring or evaluation plan for the “Open Space-Preserve.” This mitigation states, “Mule deer mortality along US 395 adjacent to the project site can be minimized by ensuring that the corridor between US 395 and all Tioga Inn Project elements (including the hotel, full-service restaurant, and workforce housing) remains entirely free of linear barriers, brightly lit signs, and new surface structures (excepting one new above-ground sewage/reclaimed water pump control structure with no more than 100 feet of building area), with no future devegetation of native plant materials. This mitigation measure applies only to lands owned by the project applicant and outside of the approved hotel and restaurant uses.” This is purely speculative mitigation, as there are no clear objectives and no baseline data to determine whether future monitoring (not described) will make this mitigation effective at all. It is possible that this proposed mitigation may have the opposite of the intended effect—exacerbating deer mortality by inviting deer to use open space in greater proximity to Highway 395, consequently increasing vehicle collisions with deer and other wildlife.

4. Mitigation BIO 5.3(d-4) (Waste Receptacles)

This mitigation is passive, and does not specifically state who will design waste receptacles, and how this design will be evaluated so that they are successful in preventing the bears and ravens from accessing them. Rental agreements are mentioned as a means to mitigate against unsecured food items outside residences and vehicles, but again there is no substantive description of how this will be enforced, who will enforce it, how the mitigation can be ensured to be successful through meeting specific objectives and monitoring.

5. Mitigation BIO 5.3(d-5) (Deer Passage; Cumulative Impact Mitigation Measure)

This deferred mitigation does not consider the increased development footprint of the new Southern California Edison (SCE) substation. There is no natural corridor immediately adjacent to Lee Vining Creek north of Highway 395 along the SCE property. The current culvert has no room for any deer movement unless the deer are capable of crossing long distances along a submerged creekbed composed of large granite rocks. Further, the culvert, if extensively modified and widened, would also require cooperation, concessions, and financial commitment from SCE to extensively augment the creekbed corridor through their substation development. This mitigation, while in the Project area, is widely separated by Highway 120. The expectation that deer would travel south and east of the Tioga Inn Project area, follow the “Open Space-Preserve” northwest, cross Highway 120 at the intersection of Highway 395, and then efficiently traverse beneath Highway 395 through a Deer Passage is unrealistic.

Finally, this deferred mitigation is potentially cost-prohibitive. The “applicant intends to collaborate with Mono County Community Development Department to submit a Sustainable Communities grant application under the Rural Innovation Project Area (RIPA) program. A priority use of program funds, if awarded, will be to develop a safe pedestrian and cycling access route between the project area and the community of Lee Vining. This access route will be designed to incorporate a deer passage along the US 395 culvert at Lee Vining Creek.” While it is clear that this is deferred mitigation, the fact that it is linked with pedestrian and cycling access could complicate implementation.

If the Project proponent and lead agency are sincere with this potential mitigation, the Project proponent should be required to contribute to a mitigation fund that will cover the cost of this project (with at least potential matching funds of 50% of projected cost in 2019 dollars). Further, additional crossing locations should be analyzed for effectiveness, for example, an undercross location beneath Highway 395, ¼-mile south of the junction of Highway 395 and Highway 120.

6. Significance after mitigation

The DSEIR states, “However, only Caltrans has authority to create a deer passage along US 395. There is no assurance that that Caltrans would undertake this measure, nor can it be assured that a grant application will be successful. The potential for increased deer mortality due to a project-related increase in unsafe highway deer crossings is therefore considered to be a *significant and unavoidable adverse project impact*” (emphasis added). MLC agrees with this finding, and this is a much larger impact than just on the deer. The potential for additional highway impacts would likely result in even further impacts to traveler safety and place further strain on the resources of the Lee Vining Volunteer Fire Department. This potential adverse project impact feedback loop is a hidden and unanalyzed project impact.

The conclusion here is flawed: “Implementation and enforcement of mitigation measures recommended above would reduce all other potential project impacts on biological resources to *less than significant levels.*” (emphasis added) A number of these mitigation measures, as outlined above, have incomplete descriptions of implementation and vague references to who would enforce them and how they would be enforced. The mitigation measures lack clear objectives and monitoring. Consequently, as written, the DSEIR does not sufficiently reduce all other potential project impacts on biological resources to “less than significant levels.”

D. Land use planning

1. Mono Basin National Forest Scenic Area

While the proposed Project is not located within the Mono Basin National Forest Scenic Area (Scenic Area), it is located 1,000 feet from its boundary, and the scope and overlooking scale of the project has a number of direct visual impacts within this congressionally-designated, first of its kind, National Forest Scenic Area. As a result the development is in conflict with management goals and elements of the Scenic Area Management Plan.

Consideration of Scenic Area goals, given the Project's proximity to the Scenic Area, would show an intent to make the Project compatible with the scenic values of the Mono Basin and help mitigate direct impacts to visual character.

The Scenic Area Management Plan contains specific management direction that supports the overall legislative goals. Consultation with the US Forest Service would allow for discussion of these goals. Here MLC highlights that protection of visual resources is at the core of the Scenic Area Plan, as captured in the goal "Manage the Scenic Area to maintain and enhance the visual resource."

The Inyo National Forest assigns Visual Quality Objectives (VQOs) for various areas in the Scenic Area. These are so important to the integrity of the Scenic Area that any action that deviates from a previously assigned value must obtain the Forest Supervisor's approval. If a visual resource at any time fails to meet its originally-assigned VQO, it must be rehabilitated. Special emphasis is given to foregrounds and middle-grounds of scenic corridors of travel routes, including highways officially designated by the State as California State and County Scenic Highways, which include State Highway 120 (West of 395), and US 395.

The DSEIR should include new mitigations and alternatives that eliminate permanent visual impacts, and the Scenic Area Plan should be used as part of the method to evaluate their effectiveness.

2. Physically dividing an established community

The DSEIR states in section 5.5.5: "The Tioga Mart development is located about one-half mile south of the community of Lee Vining. The site is physically separated from Lee Vining and from Mono Lake by US 395 (which defines most of the northern property boundary) and by SR 120 (which defines most of the western property boundary). Proposed uses would be integrated into the layout of existing and approved onsite uses and none of the proposed uses would have the potential to physically divide established community areas in other locations. No impacts have been identified, and no mitigation is required."

The DSEIR correctly identifies the separation of the site from Lee Vining and yet reaches a perplexing and incorrect conclusion. The DSEIR is incorrect to conclude that there are no significant impacts associated with LU 5.5(a). Instead, the document should identify that the project produces significant impacts and be revised to explore new Project alternatives and mitigations to reduce those impacts.

The existing Tioga Gas Station and Whoa Nellie Deli frequently demonstrate the physical divide already created by the project in Lee Vining. Social gatherings for live music and residents dining at the Whoa Nellie Deli necessitate driving out of Lee Vining to the project site (or walking/biking at peril to unsafe traffic exposure). The addition of a hotel, restaurant, and now workforce housing, and the resulting quadrupling of Lee Vining population will magnify this division and essentially create an entirely new, separate, and self-contained development with a high density of people and services separated by .63 miles of highway travel and no coherent

physical relation or connection to the town of Lee Vining except those assigned by political construct.

For all practical, common-sense description, the development site is “down the road” and not physically a part of the small, rural, town of Lee Vining. The project proposes to house the majority of the future community on its site, thus dividing the community by virtue of growing the community significantly on the other side of the existing divide.

3. Inconsistency with Community Plan

The Mono Basin Community Plan was approved in 2012 and is an Area Plan in the Mono County General Plan. CEQA requires that the DSEIR be consistent with the Mono Basin Community Plan. Unfortunately the Project as proposed has numerous serious conflicts with the Mono Basin Community Plan goals, policies, and actions. The DSEIR is incorrect to conclude that there are no significant impacts associated with LU 5.5(b). Instead, the document should identify that the project produces significant impacts and be revised to explore new project alternatives and mitigations to achieve Project compatibility with the Community Plan.

Although the DSEIR (5.5-17) states that the “Mono Basin Community Plan was developed by the Mono Basin RPAC,” it is more accurate to state that the RPAC supported the development of the Mono Basin Community Plan by the community members of Lee Vining through a focused collective facilitated process that included broad participation in multiple meetings, surveys, and detailed consensus-based drafting and editing to achieve a final plan that—for the first time—represents the goals the community of Lee Vining holds for itself.

As an integral part of the Lee Vining community, the Mono Lake Committee recognizes the Community Plan as a carefully crafted expression of the values of shared goals of the diverse residents. Consistency with the Community Plan is a critical ingredient to assuring community compatibility of any project, especially one as large and impactful as the Tioga Inn Project studied in the DSEIR.

In the following section MLC reviews the DSIER’s problematic evaluation of the Project’s compatibility with the Community Plan, and we provide suggestions of specific mitigations and alternatives later in this letter. However, MLC emphasizes that to evaluate Community Plan consistency it is critical that input from the many members of the Lee Vining community be carefully considered and MLC urges Mono County to thoroughly catalog community comments to create a complete and comprehensive roster of concerns that point out project inconsistencies with the Community Plan.

Compatibility with Community Plan Goal 10: Maintain the spectacular natural values of the Mono Basin and rural, small-town character of communities by managing growth, ensuring high-quality aesthetics, and providing for community development to enhance the quality of life for residents.

Plan Objective 10.A: Provide for the orderly growth of Lee Vining in a manner that retains the small-town character by directing future development to occur in and adjacent to Lee Vining.

The DSEIR claims that “the project would be consistent with the objective to pursue orderly development in and around Lee Vining, as well as the policies to prioritize existing built uses over new lands.” This claim is unsubstantiated and incorrect.

Because the Project proposes to quadruple the current population of Lee Vining, create Significant Adverse Impacts to visual character, and does not address pedestrian connectivity impacts that threaten the safety of residents and visitors, the project clearly does not “maintain the spectacular natural values of the Mono Basin and rural small town character of communities by managing growth, ensuring high-quality aesthetics, and providing for community development to enhance the quality of life for residents.”

In regard to Objective 10.A, the proposed Project is perhaps orderly in chronology, but it does not retain the small town character of Lee Vining. This proposed development is down the road and separate from the town of Lee Vining. The Significant Adverse Impact on pedestrian safety created by the Project’s lack of foot and bicycle connection to town is evidence that the Project does not constitute orderly growth “in and adjacent to Lee Vining.” The Project quadruples the population of Lee Vining—likely overwhelming school resources, fire protection, and emergency medical services—which is neither orderly nor consistent with small-town character. And despite the DSEIR’s claim to the contrary, the very purpose of the Project being studied is to convert ridgeline land placed off limits to development in 1993 into a housing project, which is clearly in contradiction to the Community Plan’s interest in avoiding new land development.

Plan Objective 10.C: Encourage building types, architectural design compatible with scenic & natural attributes of Mono Basin.

The DSEIR states regarding Objective 10.C, “New uses will incorporate the colors, materials and rustic design elements of the existing Tioga Mart development. The siting of new uses incorporates recommendations of the project biologist as well as visual perspectives gained from the schematic renderings. Green energy will be integral to project infrastructure. The workforce housing will be designed as a residential community located inside a commercial development. All project lighting will conform with dark sky regulations that were enacted after the original Specific Plan was approved.”

While the proposed Project partially satisfies a few elements of Objective 10.C, it is in obvious conflict with the majority of the Policies and Actions listed under Objective 10.C. This is true for the current FEIR and the DSEIR. The following are notable Policy and Actions conflicts:

- Policy 10.C.1: While there is a clear edge and division with Lee Vining, and the Project is partially enclosed by a thin margin of open space, the Project brings significant adverse visual impacts to visual character of the area.
- *Action 10.C.1.a*: Project dramatically expands existing footprint of FEIR and does not preserve open space in the true spirit of the intention.
- *Action 10.C.1.b*: Project is a high intensity use and it clearly adversely impacts the area’s scenic resources and natural (mule deer) resources as per the Significant Unavoidable Adverse Impacts outline in the DSEIR.

- Policy 10.C.2: While the DSEIR states that green energy will be integral to the Project infrastructure, the Project is, in no way, as proposed, protective of scenic vistas. The Project does not follow Mono County’s ridgeline design guidelines and the Project has Significant Unavoidable Adverse Impacts to visual character in large part related to its prominent siting exposure on the moraine facing east across the Mono Basin.
- *Action 10.C.2.a*: Project does not preserve scenic vistas with its current siting and visual impacts.
- *Action 10.C.2.b*: Project is not visually connected to the community from any perspective, and while there is no known “public view corridor” designated, the project creates adverse visual impacts along the Highway 395 Scenic Byway.
- *Action 10.C.2.d*: The current business does not promote recycling, and there is no mention of expanding recycling in the DSEIR.
- Policy 10.C.3, *Action 10.C.3.a*: While the Project proposal is required to comply with Dark Sky Regulations, the siting of the project high on the ridgeline, facing east, creates a Significant Unavoidable Adverse Impact to Light and Glare. Dark Sky compliant lighting is not sufficient to overcome the aggregate, additional light pollution that the Project will bring from a prominent site over the Mono Basin.
- Policy 10.C.4, *Action 10.C.4.a*: Project does not improve the visual appearance of Lee Vining and it brings Significant Unavoidable Adverse Impact to Visual Character and Light and Glare. Mono County guidelines, including Mono County Ridgeline Design Guidelines and the County’s Scenic Combining District, are not followed.

Objective 10.D: Maintain, protect and enhance the natural, historical and recreational attributes of the Mono Basin.

The DSEIR states in regard to Objective 10.D, “Onsite trails will be provided, and the applicant and county have indicated they will jointly seek grant funding for safe trail linkage from the project vicinity to the Lee Vining Community.”

While onsite trails might be specifically valuable to the Project, they are private land amenities that do not contribute to the overall recreational attributes of the Mono Basin, and currently, there are no trails indicated on the DSEIR site plans. The DSEIR does not guarantee any safe pedestrian or bicycle interconnectivity with Lee Vining, thus reducing the current recreational assets of the Mono Basin, and the current analysis indicates Mono County will be asked to accept an unmitigated Significant and Potentially Unavoidable Impact regarding this deficiency.

Policy 10.D.3, *Action 10.D.3.(a, b, c)*: Project is self-contained and has no convenient or accessible connection with the town of Lee Vining and its associated trails except by motor vehicle travel. While there could be the possibility of implementing new connectivity, there is no current coordination with any land management or transportation agencies to plan and execute mitigation for pedestrian and bike travel. Currently the project poses an increasing volume of use with existing barriers to connectivity with Lee Vining. As a result, the local recreational choices with the increased population will be up Lee Vining Canyon and along the Lee Vining Creek Trail. The Project does not analyze use at these specific sites relative to clearly articulated thresholds of significance for these locations.

Objective 10.E: Promote well-planned and functional community uses that retain small-town character and increase the quality of life.

The DSEIR discussion incorrectly implies the project is compatible with Community Plan Objective 10.E.

By proposing to add three more Lee Vinings to Lee Vining, the Project scale would decidedly *not* retain the small town character of Lee Vining. While the town would remain small relative to much larger towns, any project that suddenly triples a small community population is not retaining small-town character.

The DSEIR claims that “the project would increase the housing supply available to local workers, and occupancy would be linked to eligibility criteria.” MLC has heard this claim made in public meetings but the DSEIR document itself is quite clear that the project purpose is to provide housing to on-site employees at the Tioga Inn (3-5) and the DSEIR anticipates the housing to be full with Tioga Inn workers in the summer, the key time when community housing is needed in Lee Vining. The Project contains no binding restrictions that are enforceable regarding reservation of space or priority placement for workers in Lee Vining, thus this cannot be considered a benefit to Lee Vining.

The Community Plan specifically calls out requirements for workforce housing which include “establish tenant eligibility criteria, including a time requirement as a local resident and/or local employee, for workforce housing units, and identify the entity that applies, manages, and enforces the criteria.” The Community Plan also directs proponents to “promote workforce housing opportunities that connect the community with housing programs.” The Project does not satisfy these plan components.

The DSEIR states that “Trails would be provided onsite for walking and bicycles, and efforts will be made to obtain grant funds for development of a walking/biking trail that would safely link the project site to the Lee Vining community.” This statement is not concrete and does not prioritize pedestrian safety and travel to and from activity centers, including connectivity of project area to the town of Lee Vining. The Project does not offer substantive antidotes to conflicts with the Mono Basin Community Plan, specifically “providing safe and convenient pedestrian and biking facilities, working with Caltrans when applicable, to reduce vehicular traffic, increase local livability, and encourage visitors to explore town.” The Project falls short in this regard as proposed mitigations are linked to the *possibility* only of a future grant with the onus on Mono County and not the project proponent.

The DSEIR discussion concludes with an entirely incorrect claim that “The 1993 project design was developed to optimize public access to the scenic resources and views around the US 395/SR 120 junction, and the newly proposed uses will be largely screened from offsite views.” As discussed throughout this letter, the newly proposed uses actually create tremendous visual impacts, a point the DSEIR supports in numerous places in direct contradiction to the DSEIR discussion here.

In fact, the visually intrusive design of the Project is directly at odds with the Community Plan which, when considering a different project, clearly states as Policy 3 “recognize the junction of

Highways 395 and 120 as an important viewshed for the community and its visitors, and therefore, a project should avoid potential impacts to that viewshed.”

Objective 10.F: Provide appropriate public infrastructure and service capability expansion to support development, public safety, and quality of life.

The DSEIR discussion states that “the project incorporates partnership opportunities including increased airport utilization (through rental car availability),” which apparently is a reference to hotel expansion amendment concepts proposed during scoping and dropped from the current proposed project. This suggests other elements of the discussion of Community Plan compatibility, for example visual impacts which we note here, may also be outdated and incorrect due to being developed too early in the document process prior to full project analysis.

The DSEIR discussion further claims that “the site serves as a staging area during emergencies, and provides space adequate for helicopter landings.” MLC could not locate any DSEIR discussion of the site serving as a formal staging area during an emergency, and with the Lee Vining Airport just across the highway it seems of limited use as a helicopter landing site. While the discussion may be referring to the ability of the private development to handle its own private on-site emergencies, the Community Plan is focused on providing public infrastructure to meet shared needs of the public community.

The Community Plan Policy 1 directs that “future development should coincide with infrastructure and service capability expansion.” The Project as proposed stands to quadruple the population of Lee Vining, yet there is no discussion or plan on how local community services such as volunteer fire departments, post office capacity, or public parking will be able to accommodate the sudden surge in community population.

Compatibility with Community Plan Goal 11: Grow a sustainable local economy with diverse job opportunities that offers year-round employment and wages that reflect the cost of living in the area.

Objective 11.A: Plan for a diversified, sustainable economy.

The DSEIR discussion claims “the proposed workforce housing will support continued development of a diversified, sustainable economy in the Mono Basin” but provides no support for this single sentence of analysis. As explained throughout this letter, the visual and aesthetic impacts of this project will be far reaching and will undermine the sustainable economy of the Mono Basin which is based on natural area tourism and driven by the exceptional scenic assets that the Project will impair.

Objective 11.B: Enhance and support the existing tourism-related economy.

The DSEIR discussion states “The applicant has communicated with USFS regarding the potential availability of housing for Yosemite employees, and has communicated with Mono County regarding the possibility of providing rental cars to airport customers.”

Again, this discussion appears to be an attempt to imply Community Plan compatibility using incomplete and dated information. MLC’s understanding is that the Tuolumne River Plan

approved in 2014 addressed the bulk of Yosemite National Park's housing need through a reconfiguration of their existing facilities in Tuolumne Meadows, thus removing significant need for seasonal Park housing in Lee Vining. Communicating with the US Forest Service about this, as stated in the discussion, may be the problem since the National Park Service is a different agency in a different department of government. The discussion again references "providing rental cars to airport customers," raising the concern that multiple project activities and objectives are planned that are not included or analyzed in the DSEIR.

Objective 11.C: Diversify the existing economic base & employment opportunities to achieve a more sustainable economy.

The DSEIR discussion glosses over the finer points of this objective. The Project proposes redundant businesses and services and does not contribute to a mix of uses and services, nor are there additional employment opportunities beyond the range of those that already exist. This conflicts with Policy 11.C.2. The Project does not contribute to Policies 11.C.3 and 11.C.5, which seek development within the existing town area and Main street revitalization.

Compatibility with Community Plan Goal 12: build a safe, friendly community where people feel connected, work together to resolve community issues and are involved in community activities & events.

Objective 12.A: Build healthy social connections & interactions that contribute to a sense of community.

Policy 12.A.1 of the Community Plan is to "Improve interactions and support between community and the schools." The Project would impose major school impacts and the DSEIR discussion is misleading, claiming "Eastern Sierra Unified School District notes that the project would enrich the school community and that developer fees would cover the cost of new facilities for children in the workforce housing area." Additional analysis should be done as here the DSEIR misrepresents the small amount of information requested of the school district and reported elsewhere in the DSEIR, notably the ESUSD opinion that "the District anticipates that the additional student population would result in a shortage of classroom space at Lee Vining Elementary" (5.8-8) and the ESUSD calculation that developer fees would only cover "part of the cost of a new portable classroom" (5.8-9), rather than fully mitigate impacts at the two school sites.

The DSEIR does not discuss the fact that ESUSD is a Basic Aid district and thus would receive no additional per-student funding to support the large new student population resulting from the project. Because the Project would increase the student population by 30% at the elementary level and 50% at the high school level there are many impacts that should be disclosed and analyzed. The conclusion that the Project's impacts on schools would be less than significant (5.8-9) is incorrect. Significant consultation should be conducted with the school district, school principal, and any school community members they recommend to understand and evaluate these impacts and identify necessary mitigations.

Objective 12.C: Encourage people to volunteer in the community and participate in events.

The DSEIR discussion is again disappointing in attempting to show Community Plan compliance, offering only that the project's 300 new residents will have "A community poster board ... provided outside of the convenience store." From the fire department to the schools, historical society, churches, and many more, the Lee Vining community thrives due to dedicated community members who volunteer their time and energy. Community functionality is hinged on volunteer participation. The project intends to house 75% of the population of Lee Vining and must meet a high standard of community responsibility, including volunteerism and community participation.

II. Mitigations and Alternatives

The DSEIR does not offer alternatives or mitigation to avoid significant and unavoidable adverse impacts to the visual character or dark sky resource of the Mono Basin. While Mono County's dark-sky ordinance, downward pointing lights, and landscape design could shield a portion of the visual disturbance, no alternatives or mitigations are fully analyzed nor advanced in the DSEIR that could potentially hide the development from the most visually impactful perspectives. This is an area where the Project, curiously, fails to recognize and consider its location adjacent to the Mono Basin National Forest Scenic Area, the Highway 395 Scenic Byway, the nationally significant eastern gateway to Yosemite National Park, or that Mono County is a valuable scenic resource for millions of visitors. The Project, as designed, instead, appears to monopolize these assets from its location, for the exclusive economic benefit of the Project and the maximum expense to visual character. The current siting location is placed on top of a bluff, 30 feet above the existing Mobil development. The cascading placement from this position opens the entire village development to view from Highway 395 and out across the Mono Basin.

A. Principles for solving visual and scenic impacts

The comment period on the DSEIR does not allow time for the public to develop detailed project alternatives and mitigations. MLC expects Mono County will want to explore a variety of useful alternatives and mitigations (including our suggestions below) to include in a revised DSEIR.

To be helpful in this process, MLC offers the following simple principles for evaluating the effectiveness of any new alternatives and mitigations in resolving the visual and aesthetic concerns that we and many others have raised.

1. The proposed housing and other Specific Plan amendments *should not be visible* from South Tufa, Navy Beach, Panum Crater, and the surface waters of Mono Lake in this vicinity. This means all elements of the physical structures, up to the roof peaks, and associated development infrastructure should be entirely hidden from view of a careful observer looking for the Project from these locations.
2. The proposed housing and other Specific Plan amendments *should not be visible* from Highway 395 or Highway 120 anywhere that the existing Mobil station is not visible. On Highway 395 this is generally the stretch south of the Highway 120 junction. On

Highway 120 this is generally the stretch west of the existing development. This means all elements of the physical structures, up to the roof peaks, and associated development infrastructure should be entirely hidden from view of a careful observer looking for the Project from these locations.

3. The proposed housing and other Specific Plan amendments *should have extremely low visibility* from the Mono Basin National Forest Scenic Area Visitor Center and Mono Lake Tufa State Natural Reserve boardwalk below County Park. Although the Project site is unavoidably visible from these locations, all visual impacts must be mitigated significantly.
4. The proposed housing and other Specific Plan amendments *should not increase* night sky light pollution in excess of the amount already approved in the existing Specific Plan.

B. Solving the Project placement problem

The placement of the Project on a high-profile, highly-visible bluff and ridgeline is the main cause of its Significant and Unavoidable Adverse Impacts to visual, aesthetic, and wildlife resources. The DSEIR describes the placement as follows:

As now proposed, the housing layout includes 16 separate 1-story and 2-story structures each housing a mix of studio, 1-bedroom, 2-bedroom and 3-bedroom units. The units are distributed over an area of approximately 8 acres that is directly southeast of and visible from the promontory restaurant site, but separated from the remaining public areas (gas pumps, store, and hotel) by an intervening ridge. The units are in distributed in a loosely clustered design that features two rows of units on a higher tier (elevation around 6,950') and two rows along a lower tier (at an elevation of approximately 6,915').

The decision to separate the housing from the rest of the Project (deli, hotel, etc.) results in a sprawling design that is the substantial source of detrimental unmitigated visual impacts. It appears that consideration was given to shielding the view of the housing from hotel guests and deli customers rather than the hundreds of thousands of Mono Lake visitors and highway travelers.

The DSEIR does not consider, or dismisses out of hand, multiple alternatives and mitigations that could screen all of the Project from Highway 395 and the Mono Basin National Forest Scenic Area, South Tufa, Panum Crater, and Navy Beach. Creative solutions that involve additional grading, contouring, and underground parking could offer sensible siting solutions that would reduce significant adverse impacts. Workforce housing does not have to be two-story and maintain a 30' height in all cases. A design approach suitable for achieving LEED certification would provide helpful detailed guidance suitable for mitigating many impacts.

C. Alternatives

New Project alternatives should be developed that address the issues described here by MLC and in response to public comments. MLC suggests several concepts here for alternatives. Due to time constraints these are brief overviews focused on resolving the visual and aesthetic impacts

of the Project. Each of these can easily be expanded to include elements, such as phasing, that are responsive to comments from others the community and general public.

All new alternatives that are developed should be presented in greater depth than those contained in the DSEIR. To be viable for the public and decision makers alternatives must have enough detail to determine if they truly resolve public concerns. Each alternative should have a site map equivalent to Exhibit 3-3 and a grading plan. Photo simulations of each alternative should also be included.

1. Alternative: Modified design that lowers the Project below the ridgeline

This alternative would reduce visual impacts significantly by redesigning the Project so that housing units are not perched on the ridgeline and east slope of the bluff. Instead of the proposed two-tiered grading that maximizes visibility from the east, this alternative would develop a grading plan to place units with an orientation toward the interior of the project site (nearer the deli and hotel) with the specific goal of fully shielding them from view from the highway and Mono Lake locations noted above.

This alternative would use a combination of the mitigations described below to lower and adjust the Project such that the peak of the highest roof is not visible from the Mono Lake and highway evaluation points to the east. Grading to lower the ground elevation at the units, berming at the east of the units to shield the project from Mono Lake and highway views, structure height control, and structure siting can be combined in various ways to achieve the goal of this alternative.

Lowering the Project to a consistent ground elevation could provide additional benefits. Clustering of units in the proposal is impaired by the 30-foot differential in ground level between the west and east units. A level ground elevation would allow units to be more easily clustered.

2. Alternative: Locate Project elsewhere on site

This alternative would significantly reduce visual impacts by leaving the bluff undisturbed as planned and approved in 1993. The housing units would be placed in other locations on the Tioga Inn site, primarily within the area already approved for development in the existing Specific Plan. This alternative would also avoid creating new impacts on migratory deer, likely reducing the need for new wildlife mitigations. This alternative could make resolving fire safety concerns easier since housing would not be at the far end of a single access road.

A combination of the mitigations below would be needed to accomplish this. Providing underground parking for the hotel and housing, for example, would free up two acres of land to work with and reduce the footprint needed for the housing. Separation of the housing units into non-adjacent clusters would allow for placement of units at several locations on the site. Reduction of the total number of units could make siting easier. Thoughtful design of the units themselves and use of grading and berming would ensure integration with the character of the existing buildings and future hotel.

3. Alternative: Replace the hotel with the proposed housing

After 26 years the approved hotel has never been built. This alternative would adjust the Specific Plan to recognize that local housing is more useful to the community and more economically viable than the hotel. The hotel element of the specific plan would be abandoned and the hotel site and its extensive parking would be repurposed for workforce housing. The bluff would be left undisturbed as planned and approved in 1993, substantially eliminating new visual, aesthetic, and wildlife impacts.

While on-site worker housing needs (the purpose of this Project) would be significantly lower without the hotel, this alternative could include provision of more certain year-round housing for off-site workers in Lee Vining and surrounding communities, subject to clear and enforceable guarantees of community benefit.

While this alternative represents a significant change to the site concept, it also solves a common community concern that the proposed bluff housing might be built without the hotel ever coming into existence. Creating permanent impacts by siting housing on the bluff while leaving empty the hotel area already approved for impacts would be a failure in planning.

MLC is well aware that, as is often pointed out in the DSEIR, the hotel was approved in 1993. However, nothing about that approval is an obstacle to this alternative. The developer is free to voluntarily include changes to the hotel and hotel site in the current proposed amendment, and indeed was initially planning to do so (in other ways) during the scoping phase of this amendment.

D. Mitigations

1. Mitigation: Grading

The DSEIR mentions up to 8 feet for grading at the housing site to reduce the ground level elevation. This amount of grading appears to have been selected solely based on the need to provide fill for the hotel site (5.12-10).

Instead, site grading could be designed to mitigate the scenic impacts of the housing by lowering the ground level to the point that the peak of the housing roof could not be seen from South Tufa or Highway 395 south of the Highway 120 junction. Fill material could be used for the hotel as planned, berms as discussed below, or elsewhere on site.

This alternative would expand on the planned 8 feet of site grading. The DSEIR notes that the Clustered Alternative was not selected “because it would require significantly more grading (and jeopardize the goal to balance cut and fill onsite), without significantly reducing visual effects or resident benefits.” In contrast, this grading mitigation would be focused precisely on reducing visual impacts. Additionally, project goals and objectives do not mention balancing cut and fill on-site and, at any rate, grading is certainly a feasible option for mitigation that must be considered.

2. Mitigation: Earthen berms

Earthen berms are discussed under Table 5.12-4 in the context of Compliance with Scenic Combining District Regulations. However, there is no substantive description of these berms, nor is there any clue to their existence in the site plan or grading plan. The best that can be deduced is that these are small landscaped berms for planting trees and shrubs. The sole exception to this is the one “landscaped berm” identified on the grading plan which appears to be designed to shield restaurant patrons in the parking area from views of the Project.

Earthen berms could be constructed and contoured up to 30 feet in height to largely obscure the entire housing development from the east using grading fill from the Project site. While the approved hotel has yet to be built after 26 years, and there is reasonable uncertainty over where it will sit, the additional grading fill proposed for the hotel site might be better used to sculpt earthen berms. Revegetation with native species and additional grading, contouring, and stabilization strategies would be necessary. This simple mitigation measure is neither considered nor evaluated in the DSEIR; however, when combined with other mitigations, it could significantly help mitigate the visual impacts of the Project.

3. Mitigation: Setbacks and one-story housing

As a stand-alone mitigation, or in combination with others, the Project’s adverse visual impacts might be mitigated with a greater setback from the east edge of the sloping moraine. The current proposal sites two-story buildings along the promontory ridge contour of the planned restaurant and extends them down and to the east onto a natural basin in the moraine where proposed units display conspicuously over Highway 395 and out across the Mono Basin to the east. This siting is in conflict with Mono County Ridgeline Design Guidelines, which “call for views to be preserved to the extent possible, structures to be situated away from visually prominent areas.” The Project is sited in such a way that it gives the impression of favoring the views for future occupants at the greatest impacts to visual character and dark sky resources.

If the Project considered a one-story height and modified building arrangement, as well as some reasonable setback, additional grading, and contouring, it might be possible to more completely or perhaps fully screen the Project.

4. Mitigation: Reduced number of units

The Specific Plan amendment being proposed would leap from the ten approved residential housing units to 100 units and 150 bedrooms. This is an increase from scoping when 80 units were contemplated. Adjusting the number of units was considered in the DSEIR, but not in combination with other mitigations. As new alternatives and mitigations are considered it will be useful to consider adjusting the number of housing units to support feasible development of these new options.

5. Mitigation: Underground parking

The Project dedicates approximately two acres of land to providing surface parking for the housing village. Underground parking would reduce the project footprint, create space for setbacks, and possibly lower the cost of other mitigations.

The hotel site dedicates over two acres of land to surface parking. Here, too, underground parking would free up land and allow for significant siting adjustments to the housing. For example, the housing could be relocated to the vicinity of the hotel, which is 40 feet lower than the bluff, fully screening it from Mono Lake and the key evaluation points identified above.

6. Mitigation: Separation of housing units

The proposed housing is designed as an isolated module set away from the deli, hotel, and rest of the site. Separating the housing into different, smaller clusters would allow for placement at multiple locations across the overall site. For example, the small parking area just east of the gas pump island could be used for one of the proposed housing units.

7. Mitigation: LEED certification

In six different scoping comments from 2016, LEED certification was suggested as an approach that would help mitigate a variety of environmental impacts. LEED (Leadership in Energy and Environmental Design) is the most widely used green building rating system in the world, according to the program website, and “provides a framework that project teams can apply to create healthy, highly efficient, and cost-saving green buildings. LEED certification is a globally recognized symbol of sustainability achievement.”

The DSEIR acknowledged and dismissed LEED in one sentence, stating, “The project is not expected to meet formal LEED standards because stringent adherence would reduce overall affordability of the workforce units.” There is no analysis of LEED compatibility, nor is there any consideration of the various levels of LEED certification or design. Regardless, a design process that would produce a project able to gain LEED certification is certain to resolve, mitigate, or avoid many of the visual and environmental impacts that the current proposed project proposal creates.

LEED certification is an increasingly common way for gateway community developments adjacent to world-renowned natural areas like Yosemite and Mono Lake to show a commitment to environmental sustainability and to protecting the very resources that draw in business to the site. The following section of our comment provides reference projects, including from the western gateway to Yosemite, where LEED certification is part of a responsible development project.

8. Mitigation: Community connectivity

Constructing a foot and bike path to the existing town of Lee Vining is a mitigation that the Project developer could do more to explore. While it is true that sidewalks adjacent to the highway in the Caltrans right of way require agency actions independent of the Project, it is also

true that better, more pedestrian friendly options exist that the Project developer can substantially advance. A feasible mitigation is for the developer to acquire an easement from Southern California Edison for such a pathway to cross SCE's land located north of the Project. A developer-funded pathway extending from approximately opposite the Mobil entrance across SCE land to the end of the existing sidewalk at the south end of Lee Vining, including a pedestrian and bike bridge crossing Lee Vining Creek, would provide most of the connectivity necessary. Only the Highway 120 crossing from the site to the path would need to be worked out with Caltrans. The pathway easement and construction would be funded by the developer and the pathway would be public and administered by Mono County similar to sidewalks in Lee Vining.

9. Mitigation: Mitigation funds

The DSEIR identifies Deer Passage (BIO 5.3(d-5)) and Pedestrian Safety (SVCS 5.8(a-1)) mitigations that are contingent on Mono County securing public funding for their implementation. In both cases the Project is the cause of the significant impacts that trigger the need for mitigation. Further analysis in a revised DSEIR will likely identify additional situations where mitigation funding is required. While the DSEIR is correct that the developer cannot construct off-site mitigations independently, the DSEIR overlooks the common practice of establishing mitigation funding mechanisms. These allow the developer to pay their fair share toward mitigation projects that will necessarily be implemented by agencies or other entities. Mono County should establish such mechanisms to allow the Project to mitigate its significant impacts.

III. Reference Projects

Lee Vining is the gateway to Mono Lake, Yosemite, and Mono County. These are popular, well-known, well-publicized, major visitor destinations. Throughout this letter we have emphasized that as a result the Project should do more than the average development to explore alternatives and implement mitigations to achieve thoughtful compatibility with the special protections and high visibility of the area.

This challenge is not unique to Lee Vining and Mono County. Across the West communities that are closely tied to high-profile, protected areas are demonstrating that, with thoughtful planning and environmental commitment, projects are being carefully developed from the ground up to avoid significant damage to the natural values that make their locations special destinations.

Mono County should be among these leaders, as the Tioga Inn project will determine if Mono County qualifies for decades to come.

As County staff lead a DSEIR revision and recirculation process it will be helpful to learn from other successful projects and MLC suggests some to investigate here. Many begin their design process with commitment to the Leadership in Energy and Environmental Design (LEED) process. This certification program is one way to ensure landscape, environment, and community compatibility specifically for projects with similar scope, goals, proximity to highly valued natural landscapes, and rural community needs.

A regional example of a comparable project with LEED Silver certification is the Tenaya Lodge at Yosemite in Fish Camp on Highway 41 at the western gateway to Yosemite. Tenaya Lodge achieved LEED scorecard points by reducing lighting in its exterior environment, water efficiency, minimizing onsite parking, providing alternative transportation access and parking, and taking extra effort to achieve development density and community connectivity.

The LEED website has a comprehensive list of project examples from other renowned destinations. Multiple LEED-certified employee housing developments at Yellowstone National Park, including the Old Faithful Employee Housing and Teal Dorm at Yellowstone, show that rising to meet LEED standards can be done for workforce housing.

Another regional example of a comparable project is Rush Creek Lodge and the associated Evergreen Lodge on Highway 120 west of Yosemite. Both lodges are reasonably similar in size and scope and to the Tioga Inn. Employee housing is included in their environment and community responsibility goals. Rush Creek Lodge has 143 rooms for guests and 168 workforce housing slots (which includes other programs, not just hotel staff). Both lodges advertise their environmental and community responsibility to the area and the communities in which they exist as part of the appeal of what they offer to visitors.

These facilities guarantee their commitment to these principles by operating as part of a certified B-Corporation. Certified B Corporations are legally required to consider the impact of their decisions on their workers, customers, suppliers, community, and the environment. As the Rush Creek Lodge website says, their B Corp ownership structure is “designed for long term sustainability, putting the health of our communities, environment and staff on the same level as the health of the bottom line.”

IV. Conclusion

Mono County has important work to do on this Project. Many points of concern have been raised here, in our accompanying legal letter, by the community, and by the public at large. Better alternatives and mitigations need to be created to resolve these concerns. A comprehensive EIR, new alternatives and mitigations based on comments and community engagement, and recirculation of the document are the path forward.

As Mono County works through this process MLC offers a reminder that the County Vision, prominently displayed on the Community Development website, is an excellent guide to crafting a beneficial project that is respectful of the exceptional environmental resources of the Mono Basin and the unique community of Lee Vining:

“The environmental and economic integrity of Mono County shall be maintained and enhanced through orderly growth, minimizing land use conflicts, supporting local tourist and agricultural based economies, and protecting the scenic, recreational, cultural and natural resources of the area. The small-town atmosphere, rural residential character and associated quality of life will be sustained consistent with community plans.”

Thank you for the opportunity to comment and for the responsiveness of Community Development Department staff, who have answered our questions with great knowledge and professionalism. We would be happy to answer any questions you might have about our

comments, and we would also be pleased to share our organizational knowledge of Mono Lake and the Mono Basin in any way helpful to your process moving forward.

Sincerely,



Bartshé Miller
Eastern Sierra Policy Director



Geoffrey McQuilkin
Executive Director

