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January 15, 2009

Tom Last  
Community Development Director  
City of Grass Valley  
125 E. Main  
Grass Valley, CA 95945

Re: Idaho-Maryland Mine DEIR comments  
SCH# 2007092017

Dear Mr. Last:

Thank you for the opportunity to comment on the Idaho-Maryland Mine Draft Environmental Impact Report of October, 2008.

I have been retained by a local group, CLAIM, to provide comments in a number of areas including land use, housing, traffic, and alternatives. My background includes 25 years as a city and environmental planning consultant. For 20 of those years my work consisted largely of the preparation of environmental impact reports, general plan, and planning studies for public agencies in the Sierra Nevada foothill communities. I hold a B.S. degree in Conservation of Natural resources from U.C. Berkeley and an M.A. degree from Cal Poly, Pomona in Urban Planning.

Comments on the DEIR by CLAIM and the community have identified numerous additional significant and potentially unmitigable project impacts. The DEIR should be revised to include these additional analyses and conclusions and recirculated.

I am particularly concerned that the following issues are not adequately discussed in the DEIR:

- ▶ The DEIR does not discuss the issue of land use incompatibility with surrounding existing and future land uses. This is a critical concern since the East Bennett Street neighborhood is planned to be a vibrant mixed use residential and business park area which is not normally compatible with 24 hour heavy industrial and mine uses and heavy haul truck traffic.
- ▶ Consistency with the existing General Plan land use map is not discussed. This is important, because a major about face in vision and

planned urban form for the area will result from the requested general plan amendment.

- ▶ Loss of the Urban Medium Density land use designation on the site will result in a loss of up to 376 future homes, many expected to be work force affordable. Yet, the DEIR incorrectly concludes that the project will not result in a significant loss of future housing. The DEIR, instead, assumes that the Special Development Areas (SDAs) will be approved, granting major general plan amendments for more housing than they are currently allowed, to make up for this loss. This is a mitigation that cannot be assured. It cannot be assumed that the SDAs will be approved, nor with what number of housing units.
- ▶ We are pleased to see that the No Project/ Existing General Plan alternative is considered the environmentally preferred alternative. Yet the text of the DEIR does not fully describe the benefits of this alternative in comparison to the mine/ceramics project which is needed for the City Council to make a fully informed decision.
- ▶ The critical safety impacts of up to 286 truck trips/ day on the difficult freeway frontage access roads in Grass Valley and on Highway 49 from Grass Valley and through Auburn are not discussed.

My specific comments on the DEIR follow:

## **1. Critical land use impacts not discussed.**

### **a. Inconsistencies with existing Grass Valley General Plan and related physical impacts not discussed.**

The DEIR fails to discuss a key impact – whether or not the project is inconsistent with the existing Grass Valley General Plan which designates the mine sites as Business Park (BP), Urban Medium Density (UMD), and Manufacturing-Industrial (MI) and what related impacts would result. The DEIR writers do state that: *“mineral mining and manufacturing uses are not allowed on sites with BP and UMD land use designations”* (DEIR page 4.8-20, para. 5). However, rather than continuing on to discuss the impacts of this inconsistency, the DEIR assumes a change of the General Plan land use designations for the sites as a jump off point for the impact discussion. (See DEIR page 4.8-20, last para.) This is not the method normally used in EIRs and is counter to the significance criteria on DEIR page 4.8-14: *“Conflict with an applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating environmental effect.”*

It is critical to discuss the project in relation to the existing General Plan designations because the current General Plan designations were assigned during the General Plan update to create a balance of land uses throughout the City as well as a vision for the area including and surrounding the proposed mine. Clearly, the City intended this immediate area (and the Idaho-Maryland site in particular) to urbanize into a mixed business park/medium density housing area in close proximity to downtown. Changing the designation and the use to a purely heavy industrial site (MI) operating 24 hours per day and including a major mine will completely alter the original plan for the urban form of the E. Bennett St. neighborhood. This is a large and important infill area for the city located within existing commercial and residential areas of Grass Valley. (See DEIR Figure 4.8-4 for existing and surrounding land use designations, illustrating the overall plan for the general area.) This important change could reverberate throughout the General Plan, likely requiring other adjustments, at a minimum to ensure adequate housing and business park jobs as well as a logical urban plan for this area of the city.

The DEIR minimizes the discussion of any adopted land use plan inconsistencies by concluding that the only impact issues are the 50 foot height limit in M-2 zoning, tree protection wording in the neighboring Whispering Pines Specific Plan related to the Round Hole site, the location of a pocket park site on the Idaho-Maryland site in the Grass Valley Park and Recreation Master Plan, and potential conflict in timing of the Centennial Drive extension. These are minor impacts compared to the major impacts of the overall project inconsistency with the adopted Grass Valley General Plan Land Use Element and Mineral Management Element which will include physical impacts that include land use incompatibility, physical division of the community, a potential jobs:housing imbalance, and loss of future housing stock including affordable housing. The first two of these impacts are not discussed at all in the DEIR, the latter two are discussed only generally in Section 10.

The inconsistency of the project with the existing Grass Valley General Plan and associated physical impacts including those discussed above must be discussed fully to ensure an adequate EIR.

**b. Potential land use conflicts with adjacent areas not discussed.**

In fact, the DEIR notes that: *“Potential land use conflicts to adjacent areas resulting from the effects of the proposed project are discussed below.”* (DEIR page 4.8-15, para. 1) However, none of these conflicts are ever discussed in the DEIR sections that follow this statement. The project is surrounded by existing and future residential and commercial development including the campus like setting of the existing Whispering Pines Business Park, existing low density housing along E. Bennett St., the Empire Mine State Park, and major future residential areas including the Loma Rica Special Development Area (SDA) and

the E. Bennett St. corridor. Again, the Grass Valley General Plan does not envision heavy industrial uses or a mine in the core of this important growth area for the city; it plans for a mix of high quality business park and residential land uses because of its proximity to the densely developed center of Grass Valley. Clearly, the General Plan expected that heavy industrial uses would not be compatible with this vision and the types of uses originally planned for. It was prepared with the understanding that mineralization existed in this area (including a historic mine), yet a land use designation permitting mining was not selected. The heavy industrial use characteristics of the project as proposed are simply not compatible with the existing or proposed land uses surrounding the sites nor the overall vision of the General Plan for this area and this should be discussed in detail in the DEIR. We conclude that this is an unavoidable impact and that only the existing General Plan designations alternative can address this impact.

The DEIR does note that related noise, traffic, and air quality impacts are discussed individually in other sections. However, land use compatibility impacts consist of the combination of these types of physical impacts. Individually, they may be considered less than significant or avoidable with mitigation, but together they can result in land use compatibility impacts. Combined, they add up to use characteristics which are not normally acceptable within or near residential, hospital, park, and local shopping land uses and town centers such as those that are located in the project vicinity. In this case, the combination of the project's air quality, traffic, noise, aesthetic, and water quality impacts, even though some have not yet been determined by the DEIR writers to be significant and avoidable or unavoidable, must be considered significant and unavoidable and the existing General Plan alternative must be considered preferred.

Potential land use conflicts with existing and future land uses must be discussed fully in the FEIR to ensure an adequate document.

### **c. Consistency with individual Grass Valley General Plan Land Use Element policies not discussed.**

In addition, the DEIR fails to analyze the project's consistency with the individual policies listed in the Land Use section of the DEIR which eliminates their utility as significance criteria. In addition, no Grass Valley General Plan Land Use policies are even listed in the DEIR. In fact, the project appears to be inconsistent with a number of the policies that are listed in the Land Use section of the DEIR, including:

*Annexation Policy 2-LUP: "Require adequate information when reviewing development proposals including full environmental review and **fiscal impact analyses**, to assure minimization of environmental, public facilities and services impacts." (Emphasis added.)*

Mineral Management Action 16: *“Surface access to subsurface mining may be permitted only in compatible General Plan designations defined herein.....”* (Appendix A to the Mineral Management Element lists UMD designations as incompatible with surface access.)

GV Development Code Policy H: *“Ensure compatibility between different types of development and land uses.”*

Grass Valley Land Use Element policies and direction which were not discussed in the DEIR and with which the project is inconsistent are numerous and include the following:

*“The intent of the BP designation is to accommodate a variety of employment generating land uses in a master-planned, campus type setting, designed to preserve and enhance the existing environment and to be fully integrated into the larger community.”* (GV General Plan page 3.5, para. 1)

*Residential Directions: 3. Multi-family demand will likely be met by a (sic) medium and high density residential designated areas in infill areas of the City and new neighborhoods following annexation. The East Bennett neighborhood has been designated as medium density to fill this need at a relatively close-in location.”* (GV General Plan, page 3-15.)

The DEIR must be revised to include a discussion of all relevant County and City policies relative to the project’s land use impacts.

**d. Cumulative impact discussion inadequate.**

The cumulative impact discussion in the DEIR Land Use section (DEIR page 4.8-27) does not actually analyze the potential impact. Rather, it discusses very generally (in one paragraph), the DEIR writers’ conclusion that the surrounding infill projects and the major Loma Rica SDA expected to build out around the mine sites in the future would be compatible with each other (no discussion of compatibility with the mine and ceramics plant). (DEIR page 4.9-27, para. 3) The DEIR goes on to note in the next paragraph, that the project will not result in cumulative land use impacts in part because: *“Development and its cumulative effects are considered in the development of the City of Grass Valley and Nevada County General Plans.”* This rationale is inappropriate since the Grass Valley General Plan would be changed by the proposed project. In addition, the FEIR on the Grass Valley General Plan (November, 1999) concluded that impacts on land use (Impact 3.6.6) and impacts due to an increase in amount of industrial development in comparison to existing setting (Impact 3.6.2) would be less than significant (Grass Valley General Plan FEIR page S-4). The impacts of the proposal’s increased industrial use relative to the conclusions in the General Plan FEIR were not considered and, as a result, the General Plan FEIR cannot

be considered to provide environmental clearance for the mine and ceramics plant project relative to land use and a variety of other General Plan impacts. The DEIR goes on to state that the few land use impacts it revealed could be mitigated, eliminating its contribution to cumulative impacts. Yet, as stated previously in this letter, a number of land use impacts have not been discussed in the DEIR. Without a full discussion of project land use impacts, a full discussion of cumulative impacts is not possible.

A full cumulative impact analysis is needed to ensure an adequate EIR.

**e. Physical division of the community not discussed.**

The DEIR does not discuss this potentially significant impact. The placement of a large industrial plant, surrounded by fencing, in the middle of a neighborhood planned to be a vibrant mix of urban medium density housing and campus setting business park with associated commercial will create a physical division in the community as a result of the heavy industrial use, the fencing, and the departure from the community plan for the area.

This issue must be fully discussed in the FEIR to ensure an adequate document.

**f. Grass Valley General Plan FEIR not discussed.**

It should also be noted that throughout the DEIR, the Grass Valley General Plan FEIR is not referred to and may have an impact on the conclusions in the DEIR. A methodical comparison of the General Plan FEIR impact conclusions to the project and this DEIR is required to ensure consistency with the General Plan EIR since a major general plan amendment is being requested.

**g. Land use impacts expected to be unavoidable.**

We believe that there is adequate evidence to support a conclusion of unavoidable land use impacts, that the DEIR should be changed to reflect this conclusion, and that the existing Grass Valley General Plan should be considered the preferable alternative.

**2. Land use and housing/population impact discussions inadequate.**

**a. DEIR conclusion of no displacement of future housing units inaccurate.**

The DEIR incorrectly concludes that the project will not result in a significant loss of City housing unit potential via loss of the Urban Medium Density lands because it assumes that the Special Development Areas (SDAs) will be approved with major general plan amendments to make up for this loss. (Impact

4.10-2) This is a mitigation that cannot be assured. It cannot be assumed that the SDAs will be approved, nor with what number of housing units.

Background. The project loss of UMD designated land will result in a loss of up to 376 residential units according to the DEIR (DEIR page 4.10-8, para. 4) or up to 324 units according to the analysis prepared by Don Rivenes in the Audubon Society comment letter on this DEIR (Rivenes, Appendix C). This loss must be made up if the general plan amendment for the project is approved or a significant loss of potential housing which was deemed necessary when the General Plan was prepared will be lost (Grass Valley General Plan, page 3-18, last para.)

The SDAs consist of 4 major annexation areas – Loma Rica Ranch, Kenny Ranch, Northstar, and Bear River Mill. These properties are designated in the Grass Valley General Plan for 180, 100, 363, and unspecified housing units respectively (total: 643 units). In recent years, the SDA developers have expressed interest in requesting substantially more housing units than permitted by the General Plan. This led to the preparation of Council Resolution 06-60 which established a range of housing units that the Council would consider when the projects come before them. No general plan amendments were granted. No projects have been approved. Currently, only two of the projects have submitted complete applications to the City – Bear River Mill with 120 housing units (plus commercial and business park) and Loma Rica Ranch with 700 to 900 housing units (plus commercial and business park), totaling substantially more housing units than permitted by the General Plan. Kenny Ranch has submitted an application to the County for only approximately 70 housing units, less than what is permitted in the General Plan. The Northstar applicants have expressed an interest in 438 homes, close to the General Plan maximum, but have not submitted an application. Only the complete applications could be considered as possible replacements for the loss of potential housing units on the mine site. However, even these applications should not be considered replacement housing since whether or not they will be approved is purely speculative.

Loss of UMD designated land is particularly critical related to the supply of affordable housing. Since the City has identified most of the units needed for its 2001-2008 affordable housing requirements within city limits with no over supply, as land is annexed, new affordable housing sites will be needed (Rivenes). Table III-2 of the Grass Valley Housing Element shows the vacant land permitting residential uses in the 5 –year Sphere of Influence. Only 2 parcels (6.99 acres) are shown as available for very low income housing, though not exclusively. 5 additional parcels could provide for low and moderate income housing, but not exclusively. It seems clear that the City of Grass Valley will not be able to identify enough very low and low income housing for the upcoming 2007-2014 affordable housing allocation of 380 units (Rivenes, Appendix D) without the Idaho Maryland mine site Urban Medium Density housing. It should also be

noted that there is no assurance that the SDA housing will be affordable if it is approved.

Countywide, the Nevada County 2003-2009 Housing Element recognizes the county's inability to facilitate affordable housing construction because of a lack of community sewers in the unincorporated area (Nevada County Housing Element (2003-2009) page 106). To meet its requirement to provide sites at least adequately zoned for affordable housing, the County has relied on identification of sites within the Sphere of Influence of the cities to designate appropriately for future annexation to the cities. Implementation Program H 8.1.3 identified 54 acres within the cities' Spheres of Influence to rezone for multiple family housing (Nevada County Housing Element Table 4.11a). The UMD City designated Idaho Maryland mine site is included in this table. Clearly, loss of this UMD designated land will significantly harm the County's affordable housing program.

The DEIR conclusion must be revised to incorporate this analysis and must conclude that housing displacement and affordable housing impacts will be significant and unavoidable both to the City and the County.

**b. Cumulative population and housing impact discussion inadequate.**

The discussion of cumulative population and housing impacts (DEIR page 4.10-9) is virtually non-existent. It relies on the fact that City and County population growth projections have not been met. Then it notes that the SDA approvals (if they are approved) will not alter regional growth rates because they have been included in growth projections, though no evidence of how they have been included in the projections has been provided. The DEIR goes on to say that SDA growth inducement impacts will not be significant because environmental review will be conducted. (It is not clear how this fact will assure mitigation at this time with no specific mitigation suggested.) The DEIR then concludes that "the loss of UMD designated land would not adversely impact the potential to provide sufficiently for the estimated increase in the need for housing units in the city...", though no evidence is provided since it cannot be assured at this time that the SDAs will make up for this loss.

Clearly, the City General Plan projects a need for a balance of land uses and an ultimate population buildout over time. Any general plan amendments shown on the Cumulative Project List (DEIR Table 3-2) should be added to these figures plus the project. These are the cumulative figures that the DEIR must use in its analysis in a simple and quantified manner which has not been done.

The DEIR must be revised to supply a quantified cumulative impact analysis related to cumulative population growth and housing supply impacts.

**c. Consistency with individual Grass Valley and Nevada County General Plan population and housing policies not discussed.**

In addition, the DEIR fails to analyze the project's consistency with the individual policies listed in the Population and Housing section of the DEIR which eliminates their utility as significance criteria. In fact, the project appears to be inconsistent with a number of the policies that are listed in the DEIR, including:

Housing Policy A-1: *"The City shall maintain an adequate supply of residential land in appropriate land use designations with access to public facilities and services, to accommodate projected household growth and Grass Valley's share of Nevada County's housing construction need for all income groups.*

The project also appears to be inconsistent with the following County Housing Element policies:

Policy H 8.1.5 . *"Consistent with Policy 1.38, the County shall identify and rezone sites within Cities' Sphere of Influences that are without physical and environmental constraints, or constraints within the respective jurisdiction's infrastructure, and available to encourage and facilitate multi-family development to accommodate the County's housing needs."*

Policy H 8.3.2: *"Annexation agreements with the cities should be used to assure that sites zoned by the County for multiple-family housing will remain zoned at the same or higher density once annexed to the cities."*

Implementation H 8.3.2: *"Annexation agreements between the County, land owners and the appropriate city shall specifically address these sites, along with assurances that sites already zoned and those with the potential for higher densities remain available for multiple family housing at the highest density possible. The County shall work with LAFCo to maintain maximum multiple-family zoning densities."*

The DEIR must be revised to include a discussion of all relevant County and City policies relative to the project's population and housing impacts.

**3. Alternatives section inadequate.**

**a. Analysis of alternatives needs revision in revised DEIR based on newly identified significant impacts.**

Comments on the DEIR by CLAIM and the community have identified numerous additional significant and potentially unmitigable project impacts. The DEIR should be revised to include these additional analyses and conclusions and recirculated. As part of these revisions, the Alternatives

section of the DEIR will need to be revised to determine if additional alternatives are needed to address new unmitigable impacts and the text of the existing alternatives discussion will also need to be revised accordingly.

**a. The No Project/ existing General Plan designations alternative discussion is vague and inadequate.**

The No Project/ Existing General Plan designations discussion is overly general, vague, and opinionated and conclusions are not backed up by adequate analysis. Given the fact that the No Project alternative is a project consistent with the existing business park and housing land use designations that were evaluated in the General Plan EIR, there is substantial information available to draw upon.

For example, the Grass Valley General Plan (General Plan FEIR, Table S-1), summarizes the conclusion that Aesthetic impacts from development of the General Plan will be less than significant (Impacts 3.8-2,3). Though a specific project is not discussed in the General Plan EIR, surely a project consistent with less intensive existing land use designations would not “*result in substantially similar impacts as would the proposed project...*” (DEIR page 5-15, last para.) The existing General Plan designations would not permit heavy commercial uses. At a minimum, the scale and industrial appearance of structures would be smaller and more in keeping with nearby business park uses. The DEIR goes on to state that both projects would be compatible with existing development visually because they would be required to adhere to each jurisdiction’s design guidelines. This fact does not ensure that visual impacts will be less than significant since the outcome of design review cannot be predicted and may not be able to fully mitigate impacts. The No Project alternative must be determined to be less impacting than the proposed project relative to aesthetic impacts.

Air quality impacts of the No Project/ Existing General Plan designations alternative are concluded to be less impacting than the project in the DEIR. These impacts should be quantified for each alternative to fully understand potential impacts. It is likely that under the No Project alternative, certain air quality impacts might be reduced to less than significant using the Air Management District menu of mitigation measures which are difficult to apply to a project of the magnitude of the ceramics plant.

Relative to impacts on Biological Resources, the DEIR (page 5-17) concludes that No Project impacts would likely be greater than under the proposed project for terrestrial habitats and species due to increased land coverage. This is not necessarily the case, since a heavily clustered development could be more readily designed with a campus like business park and individual housing developments than under the large scale ceramics plant which has less placement flexibility. In addition, the General Plan EIR concluded that

biotic impacts under the existing General Plan would be less than significant (Impacts 3.3-1,2,3). The No Project alternative must be determined to be less impacting than the proposed project relative to biotic impacts.

Impacts to Hazards and Hazardous Materials and Hydrology and Water Quality are some of the most critical impacts of the proposed mine and ceramics plant. Yet, the huge difference between a No Project mix of homes and business park and a working mine with toxic issues that have not yet been fully identified has been minimized in these discussions. The discussion of these impacts should be greatly amplified. It should also be made clear that these impacts under No Project will likely be less than significant, not just less impacting than under the proposal, an important distinction. Finally, it is expected that conclusions of significant, unmitigable project impacts may result when the DEIR is revised which will make the No Project alternative more clearly preferable relative to contaminant issues.

It is impossible to conclude that Land Use and Planning impacts “*will be similar to or less than that of the proposed project*” under the No project alternative. (DEIR page 5-20, para. 1, emphasis added.) After all, the DEIR notes in the same paragraph that this alternative could potentially avoid loss of UMD land. (It will avoid this loss). The DEIR conclusion must be revised for accuracy.

It is also impossible to conclude that Noise impacts will be similar to the project under the No Project alternative as does the DEIR (page 5-20, para.2). The noise characteristics of a residential and business park project are completely different, and less, than a 24 hour mine and ceramics plant even if noise standards are met. The DEIR conclusion must be revised for accuracy. Comparative quantification is necessary for the noise discussion throughout the Alternatives section to adequately make conclusions.

The potential for significantly reduced safety impacts due to reduced large truck traffic under the No Project alternative must be analyzed.

#### **4. Transportation and Traffic impact discussion inadequate.**

##### **a. Cumulative traffic impact discussion inconsistent with General Plan EIR.**

The Grass Valley General Plan EIR concluded that a number of cumulative traffic impacts at General Plan buildout would be significant and unavoidable. (General Plan DEIR, pages 3-89 to 3-95 and General Plan FEIR Table S-1.) The project DEIR conclusions may be inconsistent with these conclusions. Each of these General Plan listed locations must be analyzed relative to the project at General Plan buildout, a logical cumulative scenario. In addition, in order to be consistent with the General Plan analysis, it must be assured that

the CIP improvements and General Plan road improvements assumed in the General Plan DEIR (General Plan DEIR page 3-71) were included in the traffic model for the project and that all of the projects in the model can still be reasonably expected to be funded and constructed in the future. For instance, was the closure of Idaho-Maryland Rd. at Brunswick Rd. assumed in the model and was this why no trip distribution to Brunswick Rd. or Highway 174 assumed?

**b. Truck safety impacts not discussed.**

The safety impact of up to 286 truck trips/ day on the difficult freeway frontage access roads in Grass Valley and on Highway 49 from Grass Valley and through Auburn are not discussed. Concerns include short weave distances for large trucks, slow truck traffic on Highway 49 upgrades which could slow traffic and result in unsafe auto passing, and pedestrian/bicycle safety. This is a potentially significant impact. The possibility of limiting truck hauling to pm hours must be considered to reduce safety impacts.

The indirect land use compatibility impacts of this amount of large haul truck traffic within the core of the city and near residential and local commercial areas must be considered.

**c. Additional questions.**

Does the Long Range Baseline 2030 scenario using the City traffic model include the SDAs with project applicant requested numbers as shown on the cumulative projects list in the DEIR, or are only existing general plan designations used for the SDAs? If the larger numbers are not used, full cumulative traffic impacts have not been considered.

Why are impacts to road segments not discussed in the DEIR?

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Thank you for the opportunity to comment on this important document.

Sincerely,

Laurie Oberholtzer

