



**COUNTY OF MENDOCINO**  
**DEPARTMENT OF PLANNING AND BUILDING SERVICES**

501 LOW GAP ROAD • ROOM 1440 • UKIAH • CALIFORNIA • 95482

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March 25, 2011

NOTICE OF PUBLIC HEARING AND AVAILABILITY OF DRAFT NEGATIVE  
DECLARATION FOR PUBLIC REVIEW

NOTICE IS HEREBY GIVEN THAT the Mendocino County Planning Commission at its regular meeting on Thursday, April 21, 2011, at 9:00 a.m., to be held in the Board of Supervisors Chambers, 501 Low Gap Road, Ukiah, California, will conduct a public hearing on the following project and the Draft Negative Declaration at the time listed or as soon thereafter as the item may be heard.

**CASE#:** U 15-2010

**DATE FILED:** 11/4/2010

**OWNER/ APPLICANT:** MARTIN SCHEPERGERDES

**AGENT:** FRANK AND GRETE SCHEPERGERDES

**REQUEST:** Major Use Permit for a bulk water sale and distribution facility under an extractive use type.

**LOCATION:** 7+/- miles southwest of Laytonville and approximately 2.3+/- miles east of Branscomb Road (CR# 429) on a private road, located at 10500 Branscomb Road; AP#'s 014-420-38 and 014-420-42.

**PROJECT COORDINATOR:** FRED TARR

**ENVIRONMENTAL DETERMINATION:** The Department of Planning and Building Services has prepared a Draft Negative Declaration for the above project (no significant environmental impacts are anticipated which cannot be adequately mitigated). A copy of the Draft Negative Declaration is available for public review at 501 Low Gap Road, Room 1440, Ukiah, California, and at 790 South Franklin Street, Fort Bragg, California. The staff report and notice are available on the Department of Planning and Building Services website at [www.co.mendocino.ca.us/planning](http://www.co.mendocino.ca.us/planning).

Your comments regarding the above project and/or the Draft Negative Declaration are invited. Written comments should be submitted to the Department of Planning and Building Services, at 501 Low Gap Road, Room 1440, Ukiah, California, no later than April 20, 2011. Oral comments may be presented to the Planning Commission during the public hearing.

The Planning Commission's action regarding this item shall be final unless appealed to the Board of Supervisors. The last day to file an appeal is the 10th day after the Planning Commission's decision. To file an appeal of the Planning Commission's decision, a written statement must be filed with the Clerk of the Board with a filing fee prior to the expiration of the above noted appeal period. If you challenge the project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Department of Planning and Building Services or the Planning Commission at, or prior to, the public hearing. All persons are invited to appear and present testimony in this matter.

Additional information regarding the above noted item may be obtained by calling the Department of Planning and Building Services at 463-4281, Monday through Friday, 8:00 a.m. through 5:00 p.m. Should you desire notification of the Planning Commission's decision you may do so by requesting notification in writing and providing a self-addressed stamped envelope to the Department of Planning and Building Services.

IGNACIO GONZALEZ, Director of Planning & Building Services

**STAFF REPORT FOR MAJOR USE PERMIT**

**U 15-2010  
APRIL 21, 2011  
PAGE PC-1**

**OWNER/ APPLICANT:** MARTIN SCHEPERGERDES  
P.O. BOX 250  
BRANSCOMB, CA. 95417

**AGENT:** FRANK AND GRETA SCHEPERGERDES  
P.O. BOX 209  
BRANSCOMB, CA 95417

**REQUEST:** Major Use Permit for a bulk water sale and distribution facility as an extractive use type.

**LOCATION:** 7+/- miles southwest of Laytonville and approximately 1.5 miles east of Branscomb Road (CR # 429) on a private road, located at 10500 Branscomb Road; AP#'s 014-420-38 and 014-420-42.

**TOTAL ACREAGE:** 80+/- Acres

**GENERAL PLAN:** Forest Land (FL)

**ADJACENT GP:** North: FL (Forest Land)  
East: PL (Public Land)  
South: FL (Forest Land)  
West: FL (Forest Land)

**ZONING:** Timber Production- 160 acre minimum (TP 160)

**ADJACENT ZONING:** North: Timber Production- 160 acre minimum (TP 160)  
East: Open Space (OS)  
South: Timber Production- 160 acre minimum (TP 160)  
West: Timber Production- 160 acre minimum (TP 160)

**SURROUNDING LOT SIZES:** North: 38+/- acres  
East: 80+/- acres  
South: 160+/- acres  
West: 94+/- acres

**EXISTING USES:** Rural Residential/ Timberland

**SURROUNDING LAND USES:** North: Timberland  
East: Timberland  
South: Timberland  
West: Timberland

**SUPERVISORIAL DISTRICT:** 3

**PROJECT DESCRIPTION:** The applicant is proposing to extract and distribute potable water that originates from a spring which is located on his property. The property is located 11+/- miles west of Laytonville and to the south of Cahto Peak approximately one and a half miles north east of Branscomb Road. Access to the property is by way of a well maintained gravel road which traverses lands owned by the Hawthorne Timber Company (HTC). The applicant utilizes an easement granted to him by HTC.

The applicant and his parents, Frank and Grete Schepergerdes, had a water distribution system installed from the spring to a loading site at the landing located adjacent to Branscomb Road. The system was installed by WIPF Construction with the assistance of the Schepergerdes in 2002. The pipe system was installed without the benefit of a building permit and considering that the drop in elevation is approximately 1000 feet, there is extremely high pressure in the water pipe, staff has safety concerns and will require that the system be reviewed by qualified designers and will require that the Mendocino County Building Services Division review and approve the plans, final design and final installation.

The water pipe is within a thirty (30) foot wide perpetual non-exclusive water pipeline and roadway access easement over property owned by Hawthorne Timber Company (HTC) and as a concession to the (HTC), the Schepergerdes' agreed to provide water for a 10,000 gallon water tank which was installed by HTC to be used for fire suppression efforts when needed; this tank is kept full by the spring water pipe line and is located near Branscomb Road on Hawthorne Timber Company property.

The subject property is at an elevation of approximately 2600 feet which is approximately 1000 feet higher than the Branscomb Road loading area. The entire area is heavily wooded and has slopes in excess of 30% in many areas.

The spring water currently flows into a tributary of Bear Creek which flows into the South Fork of the Eel River.

The ultimate goal for the applicant is to obtain a private water source operator license from The California Department of Health Services.

**PLANNING DISCUSSION:** The Planning Staff has evaluated this project based on goals and policies of the recently adopted County of Mendocino General Plan, the recently adopted County of Mendocino Housing Element, the Mendocino County Inland Zoning Code and Planning Principals. The majority of the discussion is included in the Environmental Review and Recommendations.

Staff conducted a site view of the property with a tour provided by the project applicant. Representatives of the Mendocino County Water Agency, the Mendocino County Department of Transportation and the State of California Department of Fish and Game have also viewed the site. Comments from reviewing agencies are included in the Environmental Review discussion.

As of the date of this report, staff has not received any comments, pro or con, from the public.

**ENVIRONMENTAL REVIEW:** The following issues have been identified in the Initial Study Environmental Checklist:

**Earth (Item 1E and 1G):** The applicant states that "no grading or drainage planned". However, even though construction of the pipeline was completed in the early 2000s, the diversion of water from the spring will require a Streambed Alteration Agreement (SAA) from the State of California Department of Fish and Game whereby one of the mitigation measures would be to control erosion by installing a down spout at the bypass pipe so that it extends down and contacts the fill slope. The pipe needs to be aligned so that it discharges onto existing large rock(s) or on imported rock rip-rap if natural large rock does not exist. If future roadway improvements are necessary and grading for drainage control is required staff recommends that **Condition Numbers 1 and 2** be included.

There is a concern that since proper building permits were not issued for the water system, people could be exposed to injury or death and property could be exposed to damage. Staff recommends that **Condition Number 7** be included to reduce the possibility of people and property being exposed to hazards.

**Air:** The Air Quality Management District had no comments regarding air quality issues, however they provided the following comment with regards to growth inducing impacts of providing water: "I believe any provision of water is by definition growth inducing and a CEQA evaluation is appropriate. If the project is to provide water to "other uses" (i.e. cultivation) then the environmental impact of that activity should be identified and discussed." The Planning Staff concurs that the provision of water to new uses and locations could contribute to population

growth in many instances, however this project will provide containerized spring potable water which will be an alternative water source to an existing population and will not have a growth inducing impact.

The subject property is not within an area where serpentine soils are found and therefore there is no concern for natural occurring asbestos. Recommended BMPs for grading and paving of the access road and public parking areas will minimize dust emissions from the proposed project.

The following General Plan Policies will be met through the development and design of the proposed project.

Policy RM-37: Public and private development shall not exceed Mendocino County Air Quality Management District emissions standards.

Policy RM-41: Reduce dust generation from unpaved roads.

**Water (Items 3B, and 3D-3G):** The subject property is located near the head waters of Bear Creek which flows into the South Fork of the Eel River. Water from the existing spring currently flows into Bear Creek and the spring water contributes to surface runoff for water users of all types downstream including domestic use, irrigational use, wildlife use and recreational use.

A representative of the Mendocino County Water Agency reviewed the project and has recommended that the applicant needs to apply for an Appropriative Water Right, as water acquired under Riparian Water Rights cannot be moved out of the watershed or stored more than 30 days. The requirement to file for Appropriative Water Rights should be made part of the permit. (**See Condition Number 3**)

A representative of the State of California Department of Fish and Game (DFG) also reviewed the project and has noted that the diversion of water from the spring will require a Streambed Alteration Agreement (SAA) from DFG. Potential conditions for the SAA include:

1. Bypass a minimum of 50 percent of total, instantaneous flow into the unnamed tributary of Bear Creek at all times.
2. Install tamper proof devices capable of measuring instantaneous and cumulative flow in both diversion and bypass pipes.
3. During the period May 1 through October 31 of each year, the bypass pipe shall be inspected and, if necessary, adjusted weekly to ensure the minimum 50 percent bypass requirement (see Condition #1 above). During the period November 1 through April 30, the frequency of inspections and related adjustments may be reduced to a minimum one per month.
4. For purposes of documenting flow requirements in Condition #3 above, a written log shall be maintained and submitted annually to DFG. This log will include, a minimum, dates, diversion rates, and bypass rates for every inspection. Copies of the log shall be submitted to DFG by December 31 of each year.
5. To reduce erosion and minimize the potential of a larger slope failure, a downspout shall be installed at the bypass pipe so that it extends down and contacts the fill slope. The pipe shall be aligned so that it discharges onto existing large rock(s) or on imported rock rip-rap if natural large rock does not exist. (**See Condition Number 4**)

**Plant Life and Animal Life (Items 4A, 5A, 5B and 5D):** A review of the Natural Diversity Database Map and the Biological Resource Maps indicate that the project site is not in or within close proximity to sensitive wildlife habitat.

There is a riparian habitat area found within 150 feet of the spring area where the unnamed tributary to Bear Creek is located. Fern and other riparian vegetation are found in this tributary and if the recommendations of DFG are followed, there will be little erosion and sediment impacting Bear Creek and thus will not impact the fish found in the South Fork of the Eel River. (**See Condition Numbers 3 and 4**)

Staff is of the opinion that, cumulatively, the project will result in potential impacts to wildlife resources. Therefore, the project is subject to the filing fees required by Fish and Game Code Section 711. (**See Condition Number 5**)

**Noise:** Minimal noise will be generated by this project. It is anticipated that one tanker truck will haul the spring water from the Branscomb Road pick-up location to Hwy 101 per day. This one daytime pick up will create much less noise than the lumber trucks that have hauled timber and lumber on Branscomb Road for many years in the past and hopefully will continue in the future.

**Light and Glare (Item 7A):** Section 4-13 of the General Plan discusses dark sky when recommending mitigation light and glare produced by new development:

*“Dark Sky” refers to a sky which is free (or relatively free) of manmade lighting. Proponents of “dark sky” regulations point out the many benefits of reducing the upward spread of light, which include conserving energy, reducing glare, maintaining rural community character, safeguarding wildlife in their natural environment, and restoring the view of the starry night sky. By focusing and directing light, lighting fixtures designed to improve the dark sky can also result in cost savings.”*

The use of light fixtures at the spring water pick-up location should be designed and positioned to respect the privacy of residents living on neighboring properties. (**See Condition Number 6**)

**Natural Resources (Item 9A):** The proposed project will increase the rate of water use. The applicant has requested permission to divert and export up to 6,500 gallons per day from the spring. (At some time in the future he may request that he be permitted to export more water.) Staff recommends that the applicant apply for an Appropriate Water Right with the State Water Resources Control Board and a Streambed Alteration Agreement with the Department of Fish and Game. (**See Condition Numbers 3 and 4**)

Listed below are policies and actions from the Water Resources Section of the County General Plan:

Policy RM-1: *Protect stream corridors and associated riparian habitat*

Policy RM-19: *Promote the incorporation of project design features that will improve water quality by minimizing impervious surface areas, maximizing on-site retention of storm water runoff, and preserving existing vegetation to the extent possible.*

**Land Use (Item 8A):** The General Plan designation of the subject property and many of the surrounding properties is FL 160 (Forest Land). The following are policy excerpts from the General Plan which discuss the intent of the Forest Land.

Policy DE-17: Land Use Category: FL Forest Lands

*Intent: The Forest Lands classification is intended to be applied to lands which are suited for and are appropriately retained for the growing, harvesting and production of timber and timber-related products. The classification should include lands eligible to be zoned Timberland Production, intermixed smaller parcels and other contiguous lands, the inclusion of which is necessary for the protection and efficient management of timber resource lands. The policy of the County and the intent of this classification shall be to protect these lands from the pressures of development and preserve them for future use as designated.*

The subject property is zoned Timber Land Production and because it is considered valuable resource land, the County Resource Lands Protection Committee has reviewed the proposed use and has found that the project is compatible with the growing and harvesting of timber.

The proposed project appears to be consistent with the Forest Resource Policies of the General Plan as are stated below:

Policy RM-111: The County considers timber growing and harvesting to be the highest and best use of lands zoned Timber land Production.

Policy RM-113: Protect the county's timber resources by discouraging the conversion or fragmentation of lands zoned "TPZ" to housing or some other use that permanently precludes its use for timber production, or timber growing.

Policy RM-119: Support agency monitoring of water quality, species of special concern, habitat connectivity, wetlands and riparian areas as barometers of forest health and productivity.

The proposed project is consistent with all of the above referenced goals and policies of the existing Mendocino County General Plan.

**Transportation and Circulation (Item 12F)**: The Department of Transportation has reviewed the proposed project and has offered these comments:

*The source of the potable spring water is located on the subject property. The applicants propose to sell the water wholesale with an estimated daily volume of one load (about 6,500 gallons) per day. Both the water supply pipeline and water supply discharge site are located on property belonging to Hawthorne Timber Company, Assessor's parcel numbers 013-710-66, -67, -68 and -69. The pipeline lies within a 30-foot wide perpetual, private, non-exclusive water pipeline and roadway easement detailed in Instrument No. 2001-12076, M.C.R., and called out in the Record of Survey Map filed in Maps, Drawer 78, Page 49, M.C.R.*

*Access to the pipe discharge/water loading site is provided by an unimproved road approach from the north side of Branscomb Road (C.R. 429) on property belonging to Hawthorne Timber Company. The discharge/water loading site consists of a water hydrant inside a 120 square-foot reinforced concrete block structure about 100 feet from Branscomb Road.*

The Department of Transportation has recommended **Condition Number 7** which will provide for a standard commercial road approach onto Branscomb Road thus providing for safer entry and exit of the commercial tanker trucks onto the County road. Staff also recommends that the applicant provide a letter from Hawthorne Timber Company which states that trucks are allowed to load water on Hawthorne Timber Company owned land. (**See Special Condition Number 1**)

**Public Services (Items 13A, 13B and 13C)**: The subject property is located within a State Responsibility Area and the Long Valley Fire Protection District. Cal Fire recommended approval of the project with the following comment: "Removal of conifer trees for this project may trigger need for compliance documents from Cal Fire, such as a L3-AC conversion exemption or a fire hazard removal exemption." The Long Valley Fire Protection District recommended approval with no comments at this time.

In response to the Cal Fire comments; there is no indication that vegetation removal of any kind is necessary for the proposed project. No mitigation is necessary.

**Utilities (Item 15A)**: The Mendocino County Division of Environmental Health provided the following comments: "Mendocino County Division of Environmental Health has no comment on the above-referenced Use Permit application at this time. Proof of water testing may be required for such application in the Coastal Groundwater Study Area, but this project is located outside of that area. All other permitting requirements for the commercial extraction and transport of potable drinking water are under the jurisdiction of the California Department of Health Services."

The applicant is aware of the permitting requirements of the California Department of Health Services for a private water source operator license. As part of the State Department of Health Services application requirements is for County approval which, in this case, is the approval of a major use permit through the Mendocino County Planning Commission.

The applicant hired **SHN Consulting Engineers & Geologists, Inc.** out of Eureka, Ca. to prepare information that is required by the California Department of Health Services as part of the application to obtain a private water source operator license. The following is an excerpt from the **SHN** report:

*Groundwater that supplies the spring source is recharged by precipitation. The recharge area of the Bear Creek Watershed that encompasses the spring water source is approximately 1.6 million square feet (approximately 37 acres). There are no known sources of contamination within the Bear Creek watershed. No potential sources of contamination within the Bear Creek watershed. No potential sources of contamination have been identified within the Bear Creek watershed. The Bear Creek watershed is located within a remote area of Mendocino County with limited access to the area. The only access to the area is via unpaved private roads*

*The source designation meets the definition for a spring. The water is derived from an underground formation from which water flows naturally to the surface. A natural force causes the water to flow to the surface through a natural orifice.*

Water quality testing was performed by BioVir Laboratories, Inc. out of Benicia on January 16-18, 2006, and the results of the testing were provided **SHN Consulting**. The results of the testing proved that the water collected from the spring were **not** under the direct influence of surface water. The testing indicated that the spring water was of the highest quality and proved to have no primary particulates, no turbidity and minimal secondary particulates.

No mitigation is necessary.

**Human Health (Item 16A):** The applicant admits that he had the spring water delivery pipe system constructed in 2002 without securing proper building permits. Although the system has been in place for approximately 8 years without any safety issues, the Planning and Building Services Department recommends that all required building permits must be secured for the water delivery system. (**See Condition Number7**).

**Cultural Resources 19A and 19C:** The Northwest Information Center recommended that an archaeological study be prepared on the parcels where the spring is located. The Mendocino County Archaeological Commission took the action that no survey would be required because there was no construction proposed with the project, the applicant was advised of the discovery clause, MCC 22.12.090. No mitigation is necessary.

**GENERAL PLAN CONSISTENCY RECOMMENDATION:** Staff finds that U# 15-2010 is consistent with applicable goals and policies of the General Plan, and therefore, staff recommends approval of the project.

#### **RECOMMENDED MOTION:**

The Planning Commission approves U# 15-2010 based on the following findings:

**Environmental Findings:** The Zoning Administrator finds that the environmental impacts identified for the project can be adequately mitigated through the conditions of approval or features of the project design so that no significant adverse environmental impacts will result from this project; therefore, a Negative Declaration is adopted.

**General Plan Findings:** With the recommended conditions, the Planning Commission finds that the proposed project is consistent with applicable goals and policies of the General Plan based on the findings and conditions below.

**Project Findings:** The Planning Commission finds that the application and supporting documents and exhibits contain information and conditions sufficient to establish, as required by Section 20.196.020 of the Mendocino County Zoning Code, that:

1. The establishment, maintenance or operation of the use or building applied for is in conformity with the General Plan.

2. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
3. Such use will not, under the circumstances of the particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county.
4. Such use preserves the integrity of the zoning district.

**RECOMMENDED CONDITIONS:**

- 1.\*\* The applicant or developer shall acknowledge in writing to the Department of Planning and Building Services that all grading activities and site preparation, at a minimum, shall adhere to the following "Best Management Practices". The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.
  - a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
  - b. The applicant or developer shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
  - c. All concentrated water flows shall be discharged into a functioning storm drain system or into a natural drainage area well away from top of banks.
  - d. Temporary erosion and sediment control measures shall be established and maintained until permanent protection is established.
  - e. Erosion control measures shall include, but are not limited to, seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below area subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1<sup>st</sup>.
  - f. All earth moving activities shall be conducted between May 15<sup>th</sup> and October 15<sup>th</sup> of any given calendar year unless wet weather grading protocols are approved by the Department of Planning and Building Services or other agencies having jurisdiction.
  - g. Pursuant to the California Building Code and Mendocino County Building Regulations, a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
    - 1.) An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1524 mm) in height and steeper than 1 unit vertical in 1 ½ units horizontal (66.7%).
    - 2.) A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures that does not exceed 50 cubic yards ( 38.3 cubic meters) on any one lot and does not obstruct a drainage.
- 2.\*\* Future development of building site(s), access roads or driveways may be subject to grading requirements and drainage control measures identified in condition # 1.
- 3.\*\* The applicant shall submit an application for and have granted an Appropriative Water Right from the State Water Resources Control Board to divert and export up to 6,500 gallons of spring water which naturally flows into a tributary of Bear Creek.

- 4.\*\* The applicant is required to secure a Streambed Alteration Agreement (SAA) from the State of California Department of Fish and Game since the spring discharges into an unnamed tributary and thence into Bear Creek.
- 5.\*\* This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$2094.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to May 6, 2011 (within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has "no effect" on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**
- 6.\*\* All lights, whether installed for security, safety, or landscape design purposes, shall be shielded or shall be positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel on which it is placed.
- 7.\*\* In conformance with encroachment permit procedures administered by the Mendocino County Department of Transportation, the applicant shall maintain a standard commercial road approach onto Branscomb Road (C.R. 429), to a minimum width of eighteen (18) feet, and improved length of twenty (20) feet from the edge of the County road.
- 8.\*\* The applicant must secure building permits for the water system. The water system must be designed by a California licensed engineer. The water system includes the installation of pipes, the water diffusion system, all valves, the water storage tanks, the block building at the loading site, and any other integral construction of the water system.
- 9.\*\* In the event that archaeological resources are encountered during construction on the property, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to the archaeological discoveries have been satisfied.
- 10.\*\* The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
- 11.\*\* The application is subject to the securing of all necessary permits for the proposed development and eventual use from County, State, and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
- 12.\*\* This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one or more of the following grounds:
  - a. That the permit was obtained or extended by fraud.
  - b. That one or more of the conditions upon which the permit was granted have been violated.
  - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare, or safety, or as to be a nuisance.
- 13.\*\* This permit is issued without a legal determination having been made upon the number, size, or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size, shape or parcels within the permit described

boundaries are different that that which is legally required by this permit, this permit shall become null and void.

**RECOMMENDED SPECIAL CONDITION:**

- The applicant shall provide a letter from Hawthorne Timber Company which states that trucks are allowed to load water on Hawthorne Timber Company owned land.

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DATE

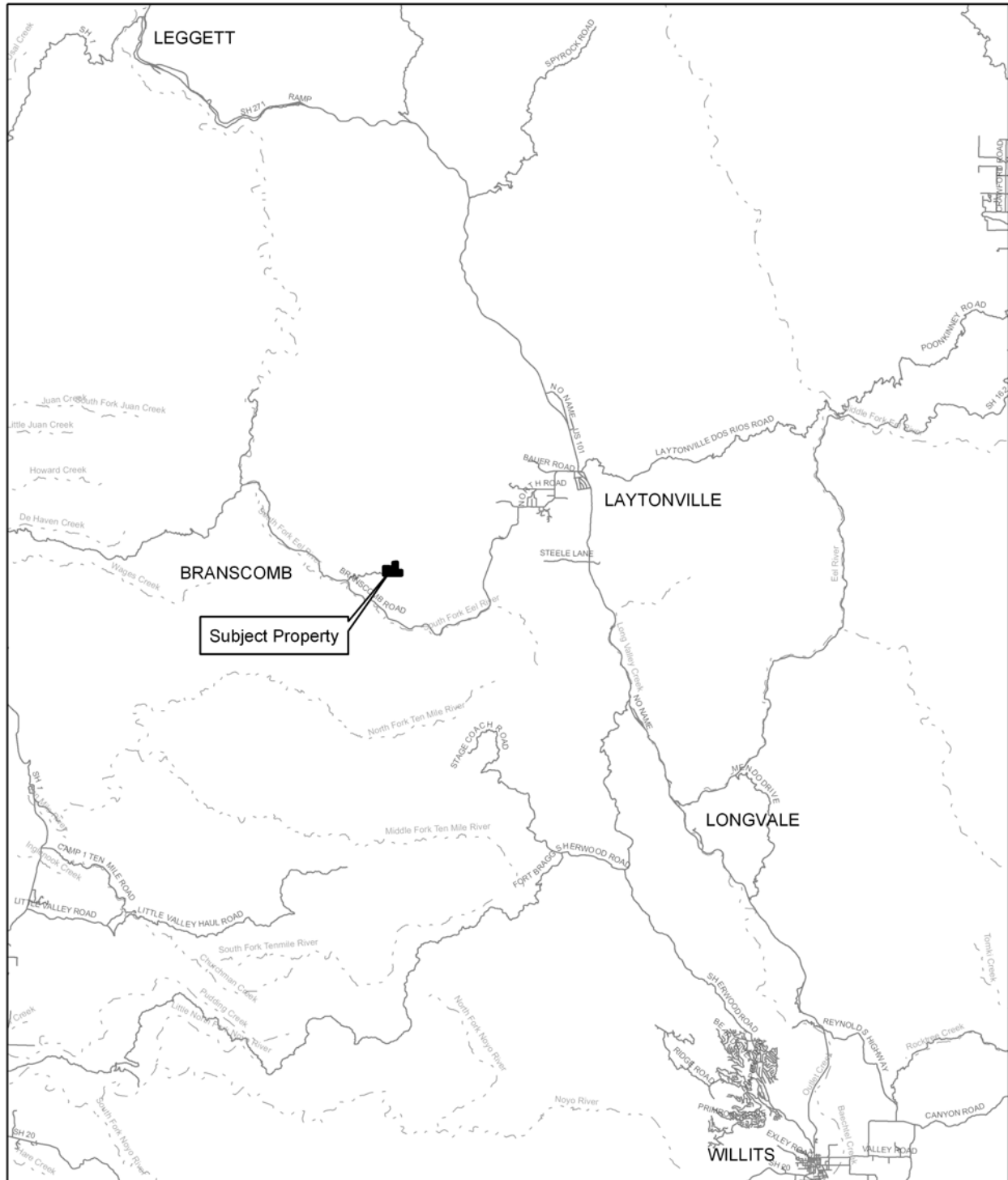
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FRED TARR  
PLANNER II

FT/at  
March 22, 2011

Negative Declaration  
Appeal Fee - \$910.00  
Appeal Period - 10 days

\*\* Indicates conditions relating to Environmental Considerations - deletion of these conditions may effect the issuance of a Negative Declaration.

REFERRAL AGENCIES	REFERRAL NOT RETURNED	REFERRAL RECEIVED "NO COMMENT"	COMMENTS RECEIVED
DOT			X
Env. Health			X
Building Services			X
Assessor	X		
Agriculture Commissioner	X		
Air Quality Management			X
County Water Agency			X
Arch. Commission			X
Sonoma State University			X
Cal Fire			X
Dept of Fish and Game			X
RWQCB	X		
Resource Lands Protection			X
Lang Valley F.P. D.		X	

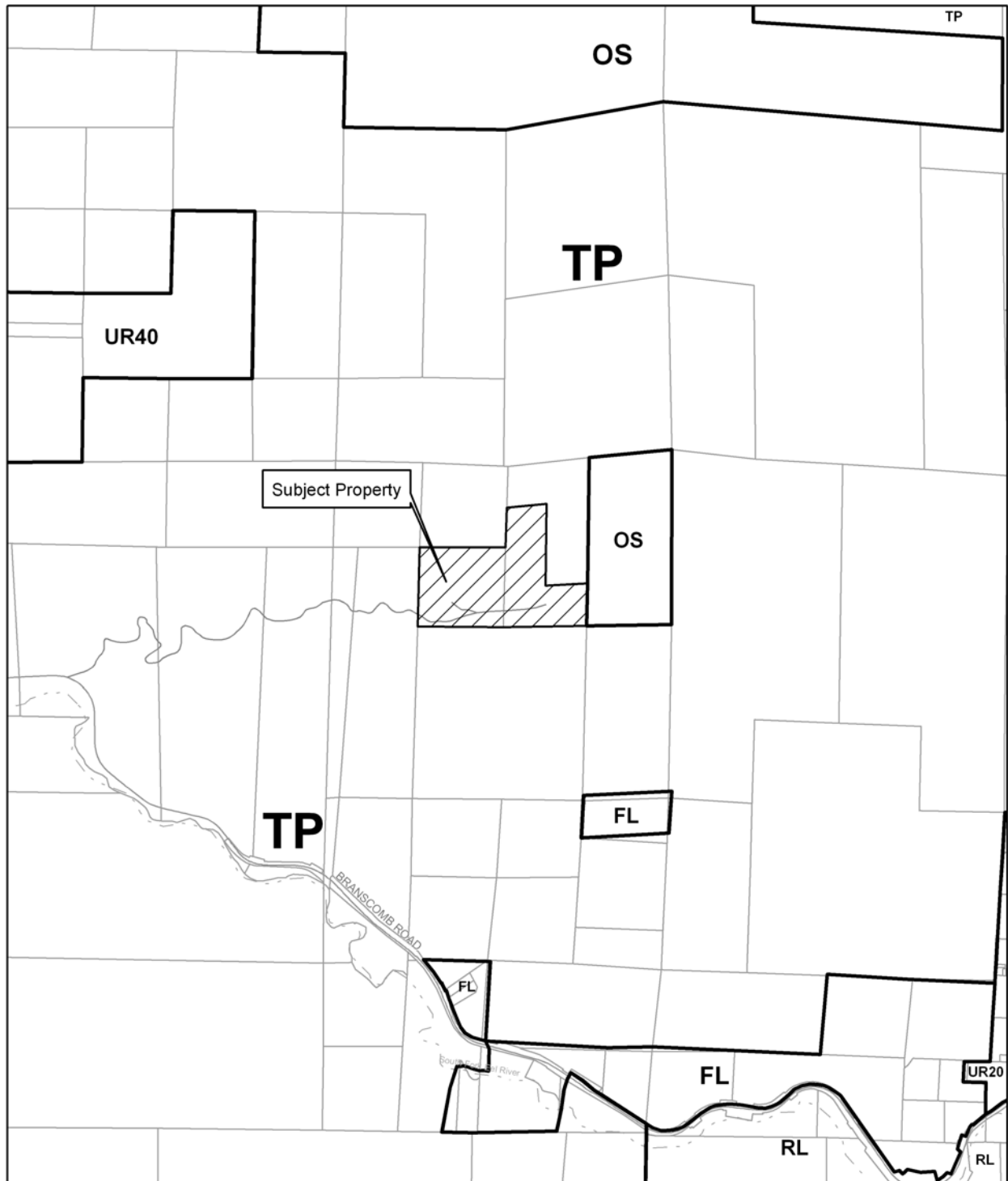


OWNER: SCHEPERGERDES, Martin  
AGENT: SCHEPERGERDES, Frank & Greta  
CASE: U 15-2010  
APNs: 014-420-38 & 014-420-42

LOCATION MAP

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off. (Parcel lines are as of October 2009)



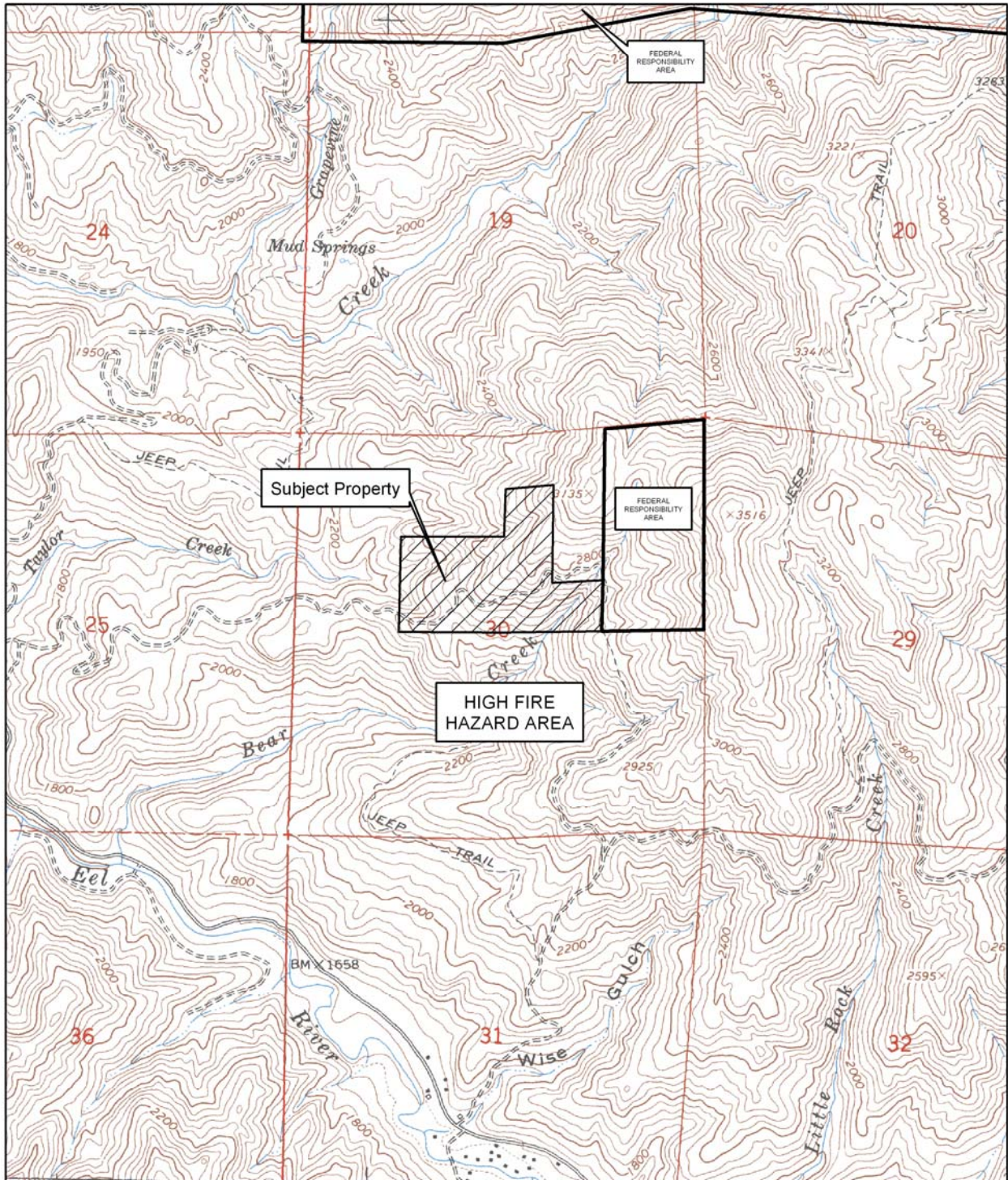


OWNER: SCHEPERGERDES, Martin  
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**ZONING DISPLAY MAP**

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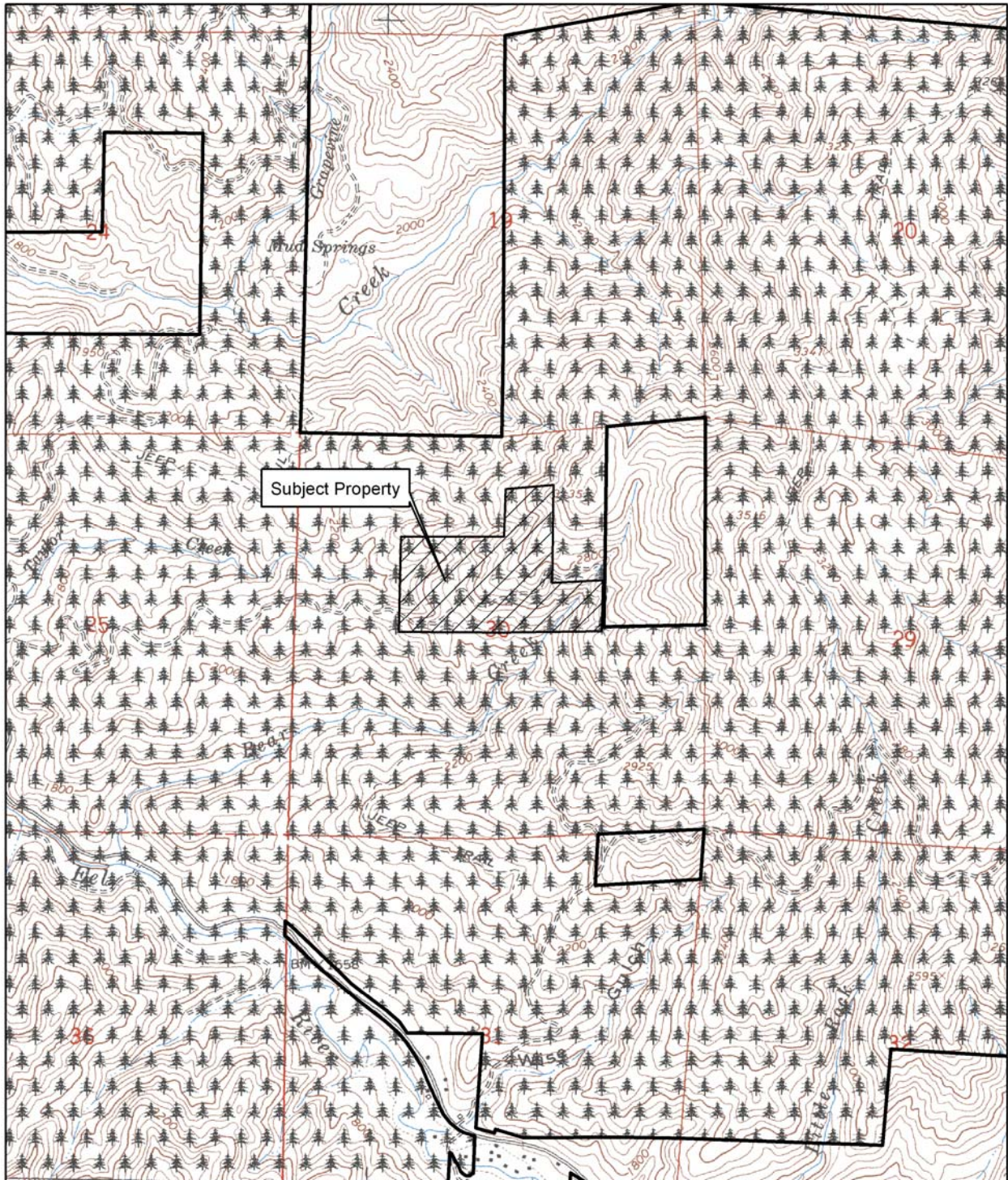


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**FIRE HAZARD SEVERITY ZONES**  
LONG VALLEY RURAL FIRE PROTECTION DISTRICT

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OWNER: SCHEPERGERDES, Martin  
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 **LANDS WITHIN TIMBER PRODUCTION ZONE**

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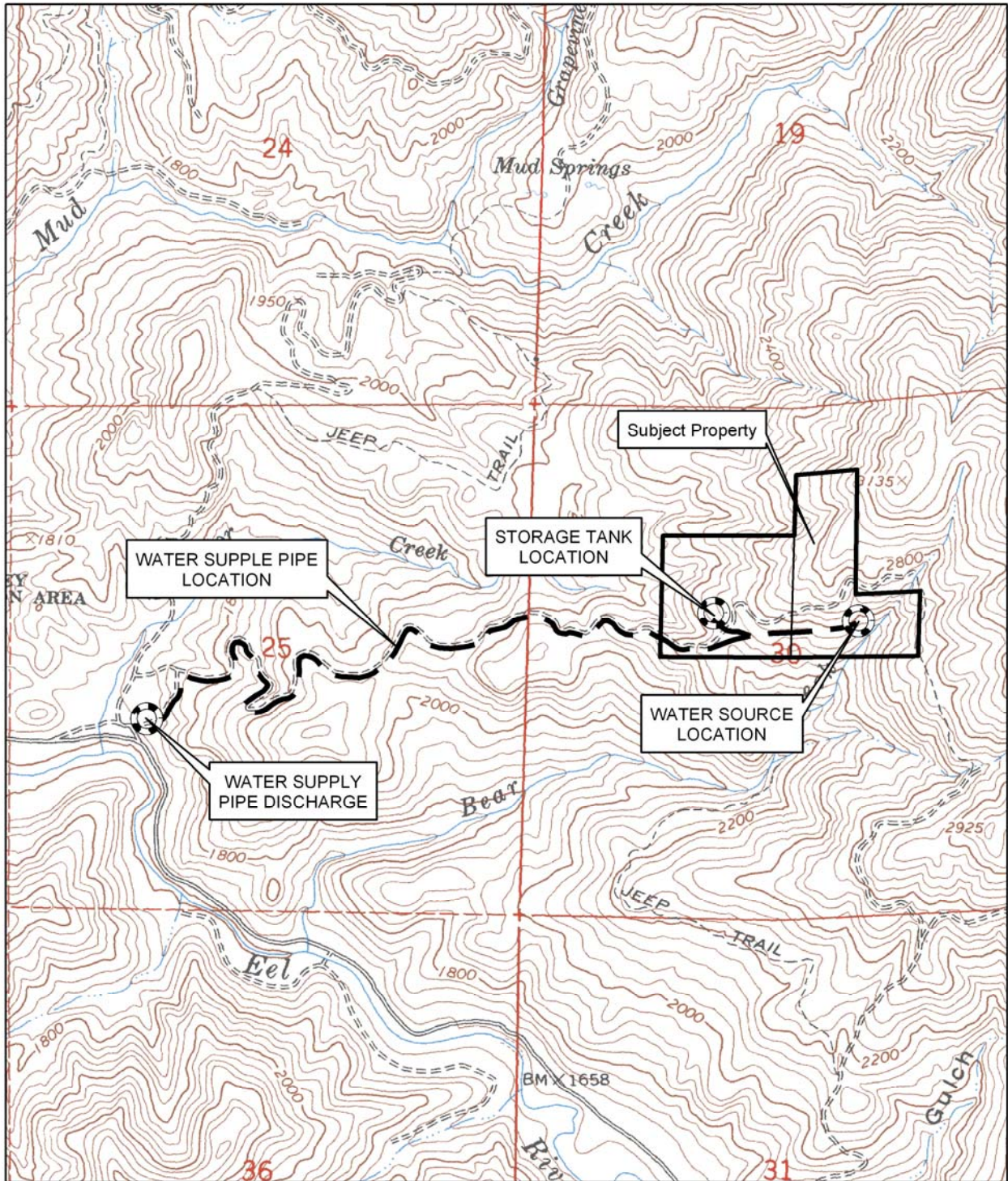


OWNER: SCHEPERGERDES, Martin  
AGENT: SCHEPERGERDES, Frank & Greta  
CASE: U 15-2010  
APNs: 014-420-38 & 014-420-42

ORTHOPHOTO - June 2009

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off. (Parcel lines are as of October 2009)





OWNER: SCHEPERGERDES, Martin  
AGENT: SCHEPERGERDES, Frank & Greta  
CASE: U 15-2010  
APNs: 014-420-38 & 014-420-42

**SOURCE LOCATION**

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off. (Parcel lines are as of October 2009)



**COUNTY OF MENDOCINO  
ENVIRONMENTAL REVIEW GUIDELINES  
DRAFT NEGATIVE DECLARATION**

**I. DESCRIPTION OF PROJECT.**

**DATE:** March 21, 2011

**CASE#:** U 15-2010

**DATE FILED:** 11/4/2010

**OWNER/ APPLICANT:** MARTIN SCHEPERGERDES

**AGENT:** FRANK AND GRETE SCHEPERGERDES

**REQUEST:** Major Use Permit for a bulk water sale and distribution facility under an extractive use type.

**LOCATION:** 7+/- miles southwest of Laytonville and approximately 2.3+/- miles east of Branscomb Road (CR# 429) on a private road, located at 10500 Branscomb Road; AP#'s 014-420-38 and 014-420-42.

**PROJECT COORDINATOR:** FRED TARR

**II. DETERMINATION.**

In accordance with Mendocino County's procedures for compliance with the California Environmental Quality Act (CEQA), the County has conducted an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, it has been determined that:

Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures required for the project will reduce potentially significant effects to a less than significant level, therefore, it is recommended that a NEGATIVE DECLARATION be adopted.

The attached Initial Study and staff report incorporates all relevant information regarding the potential environmental effects of the project and confirms the determination that an EIR is not required for the project.

**MENDOCINO COUNTY  
ENVIRONMENTAL REVIEW GUIDELINES  
INITIAL STUDY**

<b>Section I</b>	<b>Description Of Project.</b>
<p><b>DATE:</b> March 21, 2011</p> <p><b>CASE#:</b> U 15-2010  <b>DATE FILED:</b> 11/4/2010  <b>OWNER:</b> MARTIN SCHEPERGERDES  <b>APPLICANT:</b> MARTIN SCHEPERGERDES  <b>AGENT:</b> FRANK AND GRETE SCHEPERGERDES  <b>REQUEST:</b> Major Use Permit for a bulk water sale and distribution facility under an extractive use type.  <b>LOCATION:</b> 7+/- miles southwest of Laytonville and approximately 2.3+/- miles east of Branscomb Road (CR# 429) on a private road, located at 10500 Branscomb Road; AP#'s 014-420-38 and 014-420-42.  <b>PROJECT COORDINATOR:</b> FRED TARR</p>	
<b>Section II</b>	<b>Environmental Checklist.</b>
<p>“Significant effect on the environment” means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change, may be considered in determining whether the physical change is significant (CEQA Guidelines, Section 15382).</p> <p>Accompanying this form is a list of discussion statements for <u>all</u> questions, or categories of questions, on the Environmental Checklist (See Section III). This includes explanations of “no” responses.</p>	

Will the project result in the following environmental effects:	No	Yes			
		Not Significant	Significant Unless It is Mitigated	Significant -No Apparent Mitigation	Cumulative
<b>1. EARTH:</b>					
A. Unstable earth conditions or changes in geologic substructures?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Disruptions, displacements, compaction, or overcovering of the soil?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Change in topography or ground surface relief features?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Destruction, covering, or modification of any unique geologic or physical features?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Any increase in wind or water erosion of soils, either on or off the site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F. Changes in deposition or erosion of beach sands, or changes in siltation, deposition, or erosion that may modify a river channel, stream, inlet, or bay?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G. Exposure of people or property to geologic hazards such as earthquakes, ground failure, or other hazards?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Will the project result in the following environmental effects:	No	Yes			
		Not Significant	Significant Unless It is Mitigated	Significant -No Apparent Mitigation	Cumulative
<b>2. AIR:</b>					
A. Substantial air emissions or deterioration of ambient air quality?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Creation of objectionable odors?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Alteration of air movement, moisture, or temperature, or any change in climate, either locally or regionally?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>3. WATER:</b>					
A. Changes in currents, or the course of water movements, in either fresh or marine waters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Alterations to the course of flow of flood waters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Change in the amount of surface water in any water body?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Discharge into surface waters, or any alteration of surface water quality, such as temperature, dissolved oxygen or turbidity?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F. Alteration of the direction or rate of flow of ground water?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G. Change in the quantity of ground water, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Substantial reduction in the amount of water otherwise available for public water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I. Exposure of people or property to water related hazards such as flooding or tsunamis?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>4. PLANT LIFE:</b>					
A. Change in the diversity of species, or number of any species of plants including trees, shrubs, grass, crops, and aquatic plants?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Reduction of the numbers of any unique, rare, or endangered species of plants?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Introduction of a new plant species into an area, or creation of a barrier to the normal replenishment of existing species.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Reduction in acreage of any agricultural crop?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>5. ANIMAL LIFE:</b>					
A. Change in the diversity of species, or number of any species of animals including birds, land animals, reptiles, fish, shellfish, insects, and benthic organisms?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Reduction in the number of any unique, rare, or endangered species of animals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Will the project result in the following environmental effects:	No	Yes			
		Not Significant	Significant Unless It is Mitigated	Significant -No Apparent Mitigation	Cumulative
C. Introduction of new species of animals into an area, or in a barrier to the migration or movement of animals?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Deterioration of fish or wildlife habitat?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>6. NOISE:</b>					
A. Increases in existing noise levels?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Exposure of people to severe noise levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>7. LIGHT AND GLARE:</b>					
A. Production of new light or glare?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>8. LAND USE:</b>					
A. Substantial alteration of the present or planned land use of the area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>9. NATURAL RESOURCES:</b>					
A. Increased rate of use of any natural resources?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>10. POPULATION:</b>					
A. Alterations to the location, distribution, density, or growth rate of human populations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>11. HOUSING:</b>					
A. Will the proposal affect existing housing or create a demand for new housing?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>12. TRANSPORTATION/ CIRCULATION:</b>					
A. Generation of substantial additional vehicular movement?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Effects on existing parking facilities, or demand for new parking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Substantial impact upon existing transportation systems?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Alterations to present patterns of circulation or movement of people and/or goods?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Alterations to waterborne, rail, or air traffic?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F. Increase in traffic hazards to motor vehicles, bicyclists or pedestrians.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>13. PUBLIC SERVICES:</b>					
A. Will the proposal have an effect upon, or result in a need for new or altered government services in any of the following areas:					
Fire protection?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Schools?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Parks and other recreational facilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Will the project result in the following environmental effects:</b>	<b>No</b>	<b>Yes</b>			
		<b>Not Significant</b>	<b>Significant Unless It is Mitigated</b>	<b>Significant -No Apparent Mitigation</b>	<b>Cumulative</b>
Maintenance of public facilities, and roads?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other governmental services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>14. ENERGY:</b>					
A. Use of substantial amounts of fuel or energy?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Substantial increase in demand upon existing sources of energy, or require development of new energy sources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>15. UTILITIES:</b>					
A. Will the project result in a need for new systems or substantial alterations to the following:					
Potable water?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sewerage?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Energy or information transmission lines?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>16. HUMAN HEALTH:</b>					
A. Creation of any health hazard or potential health hazard?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Exposure of people to any existing health hazards?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Risk of explosion or release of hazardous substances (i.e. pesticides, chemicals, oil, radiation) in the event of an accident or unusual conditions?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Possible interference with emergency response plan or evacuation plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>17. AESTHETICS:</b>					
A. Obstruction of any scenic vista or view open to the public, or create an aesthetically offensive site open to public view?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>18. RECREATION:</b>					
A. Impact upon the quality or quantity of existing recreational opportunities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>19. CULTURAL RESOURCES:</b>					
A. Alteration or destruction of a prehistoric or historic archaeological site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B. Adverse physical or aesthetic effects to a prehistoric or historic building or structure?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Cause a physical change that would affect the unique ethnic cultural values?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D. Restrict existing religious or sacred uses within the potential impact area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<b>Section III</b>	<b>Responses to Environmental Checklist.</b>
<p>For a discussion of each of the environmental effects listed in the Environmental Checklist along with related goals and policies of the General Plan, see the Environmental Review section of the attached staff report.</p>	
<b>Section IV</b>	<b>Mandatory Findings of Significance.</b>
<p>A. As discussed in the preceding sections, the project <u>does</u> <del>does not</del> have the potential to significantly degrade the quality of the environment, including effects on animals or plants, or to eliminate historic or prehistoric sites.</p> <p>B. As discussed in the preceding sections, both short-term and long-term environmental effects associated with the project will be <del>less than significant</del> <u>significant</u>.</p> <p>C. When impacts associated with the project are considered alone or in combination with other impacts, the project-related impacts are <del>insignificant</del> <u>significant</u>.</p> <p>D. The above discussions <del>do not</del> identify <u>any</u> substantial adverse impacts to people as a result of the project.</p>	
<b>Section V</b>	<b>Determination.</b>
<p>On the basis of this initial evaluation, it has been determined that:</p> <p><input type="checkbox"/> The proposed project will not have a significant effect on the environment, and it is recommended that a NEGATIVE DECLARATION be adopted.</p> <p><input checked="" type="checkbox"/> Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures required for the project will reduce potentially significant effects to a less than significant level, therefore, it is recommended that a NEGATIVE DECLARATION be adopted.</p> <p><input type="checkbox"/> The proposed project may have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.</p>	

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 DATE

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 FRED TARR  
PLANNER II