

**From:** [Nicole Miller](#)  
**To:** [BOS Public Comment](#)  
**Cc:** [BOS Public Comment](#); [Tine Mathiasen](#); [Peter Stoltman](#)  
**Subject:** Public Comment for October 8 BOS Meeting  
**Date:** Wednesday, September 18, 2024 8:31:24 AM  
**Attachments:** [NevadaCountyBOS\\_PublicComment\\_WoodUtilization\\_091724 - EJackson .pdf](#)

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Hello,

I am submitting the attached letter as public comment on behalf of Liberty Utilities in regards to the Alpenglow Timber Conditional Use Permit Application.

Thanks,  
Nicole

**Nicole Miller** | [Liberty Utilities \(California\)](#) | Fire Protection Specialist  
P: 530-414-4872 | E: [Nicole.Miller@libertyutilities.com](mailto:Nicole.Miller@libertyutilities.com)

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Liberty Utilities (CalPeco Electric) LLC  
933 Eloise Avenue  
South Lake Tahoe, CA 96150  
Tel: 800-782-2506  
Fax: 530-544-4811

September 17, 2024

Nevada County Board of Supervisors  
Attn: Clerk of the Board  
950 Maidu Avenue, Ste. 200  
Nevada City, CA 95959  
Via email: BOS.PublicComment@nevadacountyca.gov

Re: Wood Product Utilization Support


Dear Nevada County Board of Supervisors,

Liberty Utilities is writing to express the need for woody biomass utilization facilities in the Tahoe Truckee region. Development of additional facilities is integral to forest health and fuels reduction efforts in the Tahoe Truckee region. Currently, there are limited facilities to support wood removal from our local forests.

In section 8.2.3.2 of Liberty's [Wildfire Mitigation Plan](#), Liberty recognizes the need for additional efforts to reduce accumulation of woody debris that can ignite or contribute to fire spread and intensity:

*"Liberty recognizes the need for additional efforts to reduce accumulation of woody debris that can ignite or contribute to fire spread and intensity. Liberty has implemented a Fuel management Program as a precautionary measure, where feasible, to reduce wildfire risks by removing wood and treating brush and slash after vegetation maintenance is performed. Additional treatments that reduce surface fuels from previous activities and those that further reduce fuel loads are also implemented. This program is intended to align more closely with joint goals of agency partners and the local community, so vegetation management fuel load is treated in a manner that reduces both the risk of fire ignition and the potential for increased fire intensity."*

As part of its initiative to reduce the accumulation of woody debris that contributes to fuel load, Liberty is seeking alternatives to utilize biomass. The addition of processing facilities that provide an outlet and end use for woody biomass will help Liberty achieve its objective of reducing the risk of catastrophic wildfires in its service territory.

Sincerely,  
  
Ed Jackson  
President, California  
Liberty Utilities

**From:** [Barb Pelletreau](#)  
**To:** [BOS Public Comment](#); [bdofsupervisors](#); [Clerk of Board](#); [Brian Foss](#); [Tine Mathiasen](#); [Barbara Pelletreau](#); [Barb Pelletreau](#)  
**Subject:** Proposed Sawmill on Highway 89  
**Date:** Friday, September 27, 2024 4:34:02 AM

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Nevada County Board of Supervisors  
Attn: Clerk of the Board  
950 Maidu Ave, Suite 200  
Nevada City, CA 95959

Greetings,

I am writing in full support of the sawmill on Highway 89 and here is why:

\* I attended the last public hearing in Truckee and was most impressed with the work of the Nevada County staff in their research, presentation, and recommendation (to support) the sawmill on highway 89.

\* The presentation by Dave Mercer and team with additional helpful facts and information on the project complimented the information presented by Nevada County staff.

\* I live an estimated 50% of the time at Serene Lakes and for the past 5 years I have chaired the Safety Committee, primarily focused on defensible space and installing a camera for fire detection and management. We are currently working on thinning our surrounding forest to create a 100 ft zone (not clear cut, but a healthy forest with trees spaced apart) around our community as well as on our single egress. This is a requirement for our Risk Assessment from Truckee Fire to continue to be a FireWise Community. We have a seemingly endless number of skinny, tall lodgepole pines that need to be removed.

\* It makes no sense to place all of these trees in a landfill when there is a solution that creates useable local products.

\* From the research I have done, it seems like there is no better person for this than Dave Mercer and team. He is multi-generation local family business owner. Everyone I asked about him had nothing but great things to say about him. He has worked collaboratively with all involved with this project, and I have no doubt he will continue to do so as the project progresses.

\* This sawmill seems like the "latest thinking and design" that can serve as a model for other communities to emulate given the tremendous problem with skinny tall lodge poles through the Sierras and other parts of the western United States.

In summary, I sure hope the Nevada County Board of Supervisors and planning commission continue to support and approve the sawmill on Highway 89.

Sincerely,  
Barbara Pelletreau



**From:** [Katya Christian](#)  
**To:** [BOS Public Comment](#); [bdofsupervisors](#); [Clerk of Board](#); [Brian Foss](#); [Tine Mathiasen](#)  
**Subject:** Letter for Alpenglow Timber Appeal  
**Date:** Monday, September 30, 2024 3:57:58 PM  
**Attachments:** [Outlook-0j5cpui4.png](#)  
[Alpenglow Timber Appeal LOS Sugar Bowl signed BL 093024.pdf](#)

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Please see attached Letter from Sugar Bowl Resort for the Alpenglow Timber Appeal BOS meeting on October 8th.

Thank you,

**Katya Christian** (she, her, hers)  
Sustainability Manager  
Direct: (530) 426-9000 ext.7214 | Mobile: (530) 304-3036  
[www.sugarbowl.com](http://www.sugarbowl.com)





Nevada County Board of Supervisors  
Attn: Clerk of the Board  
950 Maidu Ave, Suite 200  
Nevada City, CA 95959

Dear Nevada County Board of Supervisors,

I am writing again to express Sugar Bowl's support for the Alpenglow Timber Use Permit. The sawmill and the forest management work which it will enable are vital to our community's environmental and economic resilience. The proposal has undergone thorough CEQA review which demonstrates full compliance with state and local environmental regulations and aligns with Nevada County's General Plan and zoning requirements. The data and objective analysis found in the county's environmental document shows that this project will have no significant environmental impact, including on noise, traffic, and air quality. Opposition to the application on these grounds is therefore unfounded. The project is legally compliant, and it fills a need for sustainable, small-scale forestry operations and timber resource production.

Sugar Bowl Resort, as well as the greater Sugar Bowl Firewise Community, is engaged in widescale forest management and wildfire mitigation efforts, and the cost to dispose of woody material – particularly small diameter and low-value timber – significantly limits the acreage that can be treated and therefore the impact that this work can have. This is, in part, because there is no local market for this material. By processing small, low-value logs, the proposed sawmill will directly reduce hazardous fuels and protect our communities against the threat of destructive wildfire. In our community where forest management is an undeniable priority – whether for wildfire resilience, wood energy production, ecological health, or recreational enjoyment – there is a clear and urgent need for small-scale, local wood processing operations to enable essential forest management work to sustain itself long-term.

I respectfully ask the Board to reject the appeal and approve the Alpenglow Timber Use Permit consistent with the supportive staff recommendation and the unanimous approval by the Planning Commission. An approval will advance the County Economic Development Strategy (CEDS) which specifically identifies the Alpenglow Timber project and supports the County's comprehensive Wildfire Protection Plan.

Thank you for your time and consideration.

Sincerely,

DocuSigned by:  
  
C37C53FD25344C8...  
Bridget Legnavsky  
CEO & President

**Sugar Bowl Resort**  
PO Box 5  
629 Sugar Bowl Rd. Norden, CA 95724  
Resort Phone: (530) 426-9000  
Customer Service: [customercare@sugarbowl.com](mailto:customercare@sugarbowl.com)  
[www.sugarbowl.com](http://www.sugarbowl.com)

**From:** [Kar Werning](#)  
**To:** [bdofsupervisors](#)  
**Subject:** Alpenglow timber  
**Date:** Tuesday, October 1, 2024 8:25:58 PM

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I just read the surprisingly evenhanded article in Moonshine Ink about this project. It sounds completely logical, legal and beneficial. The opposition sounds like typical obstructionist NIMBYism. The zoning is appropriate, reasonable concessions have been made. I hope you allow this to move forward.

K. Werning

Sent from my iPhone

**From:** [Pete Bansen](#)  
**To:** [Clerk of Board](#); [Tine Mathiasen](#)  
**Subject:** Letter of support for Alpenglow Timber  
**Date:** Sunday, October 6, 2024 2:31:32 PM  
**Attachments:** [Letter of Support - Alpenglow Timber.pdf](#)

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Greetings -

My letter is attached as a .pdf.

It has also been emailed to the BOS.PublicComment address.

Best wishes,  
Pete Bansen



Pete Bansen

October 1, 2024

Nevada County Board of Supervisors  
950 Maidu Avenue, Suite 200  
Nevada City, CA 95959

Re: Letter of Support – Alpenglow Timber

Honorable Supervisors:

Thank you for the opportunity to comment on this project. I'm interested in the project for several reasons:

- My part-time residence at [REDACTED] is in close proximity to the project and I am deeply concerned about our ability to effectively manage forest fuels and wildland fire suppression in this beautiful area.
- As a firefighter and fire chief for 36 years in the Truckee-North Tahoe area, I served as alternate Tahoe Basin operational area coordinator for the Governor's Office of Emergency Services (CalOES) and president of the Lake Tahoe Regional Fire Chiefs' Association, roles that convinced me of the necessity of thinning our forests.

**I'd like to register my enthusiastic support for this project.** The need for forest management – particularly thinning - in this region is well-established and indisputable, but there is no capacity to utilize the cut timber effectively and economically. It's simply immoral to waste usable timber by burying it in a landfill and the Alpenglow project would allow the utilization of small-diameter timber without the economic and environmental burdens of trucking it a long distance to be milled. Small, sustainable mills located within a short distance of the forests being thinned (which in California is all the Sierra Nevada) are the key to economically viable utilization of a resource that must be harvested – it's a win/win.

The proponent has gone to great lengths to make this project environmentally and socially responsible. As a resident of this area since the 70's, I can count on the fingers of one hand the projects that included employee housing – it is commendable that this one does.

The Planning Commission heard a great deal of testimony concerning this project and voted unanimously to approve – I urge your Board to do the same.

Yours sincerely,



Peter A. Bansen

**From:** [Jim Dill](#)  
**To:** [bdofsupervisors](#)  
**Subject:** Letter of Support for Alpenglow Timber Sawmill  
**Date:** Monday, October 7, 2024 2:36:37 PM  
**Attachments:** [u008172PRT7066820241007.pdf](#)

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Sent from my iPhone

James Dill



October 6, 2024

Nevada County Board of Supervisors  
Attn: Clerk of the Board  
950 Maidu Ave, Suite 200  
Nevada City, CA 95959

Dear Board of Supervisors,

I am writing to express my strong support for the Alpenglow Timber Use Permit. The proposal includes a sawmill, forestry management and employee housing project that is vital to our community's environmental, economic and wildfire mitigation improvement efforts. The project has undergone a thorough review under the California Environmental Quality Act (CEQA) which demonstrates full compliance with state and local environmental regulations. I believe it is in the best interest of the community and the County to approve this project without delay. Based upon the quantity and quality of the project supporters and agency partners represented at the Planning Commission meeting August 8, I am only one of many who recognize the value, need and benefit of this project at this appropriate and strategic location.

The opposition is attempting to obstruct and delay a project that has been reviewed and found to result in no significant environmental impact by the staff, agencies and the Planning Commission. The data and objective analysis of the county's environmental document demonstrates that the Alpenglow Timber project will have minimal impact on noise, traffic, air quality and, in fact, any of the 20 specific environmental factors assessed within the environmental document.

The traffic, noise, air quality, safety and fire threat concerns of the appeal are grossly and inaccurately overstated. The necessary data-driven approach to both the project creation and the county's environmental review prove this to be true and confirmed by the Planning Commission with their unanimous action in August to approve this project and adopt the environmental document.

Alpenglow Timber's collaboration with County staff has been exemplary, following all protocols and wholly aligning with Nevada County's General Plan and zoning regulations. The project is legally compliant *and* sets a new standard for sustainable, small-scale forestry operations and timber resource production; one that balances economic and environmental needs while addressing much-needed wildfire threat reduction and mitigating impacts on neighboring communities. By processing small, low-value logs, the proposed sawmill will directly reduce hazardous fuels, thereby helping to protect our communities from the threat of high severity

wildfire. Alpenglow Timber offers a thoughtful, small-scale solution that aligns with the values of our community. Through the success of this project, Nevada County and its decision makers will become leaders for other rural forested counties at a critical time in our collective histories by facilitating implementation of critical wood infrastructure in a new era of wildland-urban-interface management. It is vital that we recognize this before allowing unnecessary obstacles to derail its progress.

Additionally, the project provides significant economic benefits including job creation, support for local businesses, employee housing, and the establishment of a sustainable, circular economy for timber and the usable wood products it creates. These are real, tangible outcomes that will benefit our local community and the larger region on many levels.

I respectfully ask the Board to reject the appeal and approve the Alpenglow Timber Use Permit consistent with the supportive staff recommendation and the unanimous approval by the Planning Commission. I hope the Board will recognize the appeal for what it is: a costly and unsupported distraction that threatens to delay an appropriate, responsible and necessary project that is crucial to our region's environmental and economic future and for its protection and safety. Approving this project will absolutely serve the best interests of Nevada County residents. An approval will advance the County Economic Development Strategy (CEDS) which specifically identifies the Alpenglow Timber project and supports the County's comprehensive Community Wildfire Protection Plan.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Dill', with a large, stylized initial 'J'.

James Dill

Truckee Property Owner

**From:** [noreply@granicusideas.com](mailto:noreply@granicusideas.com)  
**To:** [BOS Public Comment](#)  
**Subject:** New eComment for Nevada County Board of Supervisors October 8, 2024, Meeting - Truckee  
**Date:** Saturday, October 5, 2024 5:17:47 PM

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## New eComment for Nevada County Board of Supervisors October 8, 2024, Meeting - Truckee

Jason Toups submitted a new eComment.

Meeting: Nevada County Board of Supervisors October 8, 2024, Meeting - Truckee

Item: 23. SR 24-1439 Public hearing to consider the appeal filed by Donald B. Mooney on behalf of Friends of Prosser Truckee regarding the Planning Commission's decision to adopt a Mitigated Negative Declaration and to approve the Conditional Use Permit to allow for the construction and operation of a mixed-use development including a forestry management and material processing facility supported by a wood fired boiler and associated structures (facility), and six residential dwelling units for State-Regulated Employee Housing in three duplexes located on an approximately 124-acre subject property at 10375 Silverado Way in Truckee, California. (APN 016-530- 031) (PLN23-0054, CUP23-0004, EIS24-0004) Resolution to deny the appeal and uphold with modifications the decision of the Planning Commission to adopt the Mitigated Negative Declaration (EIS24-0004) and to approve the Conditional Use Permit (CUP23-0004) to allow for the construction and operation of a mixed-use development including a forestry management and material processing facility supported by a wood fired boiler and associated structures (facility), and six residential dwelling units for State-Regulated Employee Housing in three duplexes located on an approximately 124-acre subject property at 10375 Silverado Way in Truckee, California.

eComment: I support the resolution to deny the appeal. I am currently serving on one of the Town of Truckee's River Revitalization committees. While I recognize that there are valid community concerns about this development, I think it's equally important that we provide an appropriate location for industry. This site is exactly that. It has been zoned this way for years. The government shouldn't move the goalposts at this late hour.

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**From:** [Jessica Penman](#)  
**To:** [BOS Public Comment](#)  
**Subject:** Public Comment for Board of Supervisor Meeting 10/8  
**Date:** Thursday, October 3, 2024 4:12:31 PM  
**Attachments:** [Letter of Support Alpenglow Timber.pdf](#)

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Good afternoon,

Attached is a public comment for item 23. SR 24-1439 for the Tuesday, October 8, Nevada County Board of Supervisors.

Please let me know if you need anything else.

Thank you!

--

**Jessica Penman**

**President & CEO**

**Truckee Chamber of Commerce**

**Direct Line: (530) 412-7073**

**Cell Phone: (707) 363-5907**

**[Click here to book a meeting with me](#)**

**[Truckee.com](#)**



Truckee Chamber of Commerce  
10065 Donner Pass Road  
Truckee, CA 96161  
October 3, 2024

Nevada County Supervisors  
950 Maidu Ave., Suite 170  
Nevada City, CA 95959

Dear Nevada County Supervisors,

On behalf of the Truckee Chamber of Commerce, we are writing to express our strong support for the proposed Alpenglow Timber Sawmill Project on Highway 89 North. This initiative represents an important step forward for the economic vitality, environmental sustainability, and wildfire safety of our region.

The Alpenglow Timber project aligns with the values and priorities of the Truckee Chamber of Commerce and the wider region, offering several key benefits:

**Wildfire Mitigation & Community Safety:**

The establishment of the Alpenglow Timber sawmill is vital to our region's wildfire mitigation efforts. By processing smaller diameter logs and woody debris locally, this project will play a significant role in reducing hazardous fuels and promoting forest health. Moreover, it will reduce wildfire risks in its immediate area, enhance evacuation routes, and cut down truck miles on rural highways—benefiting the entire community.

**Land Use Compliance:**

The proposed sawmill location adheres to county zoning regulations and land use parameters, ensuring the project respects environmental stewardship. This reflects a responsible and sustainable approach to land use that aligns with the needs of our community.

**Economic Benefits:**

This project has the potential to provide substantial economic advantages for Truckee. By creating new jobs, supporting local businesses, and generating additional revenue, Alpenglow Timber will help stimulate the regional economy. This economic boost is especially important given the challenges our local businesses face. As we look to diversify our region's economy, forestry and forestry related businesses are a substantial part of our future. The Alpenglow Timber sawmill is a step in the right direction.

**Environmentally Sound Practices:**

The Alpenglow Timber sawmill is designed to improve forest health through a self-sustaining, small-scale operation. The improvements to the surrounding dirt roads, reduction of soil erosion, and mitigation of greenhouse gas emissions highlight the



project's environmentally conscious practices. Additionally, the project's focus on reducing fuel loads will contribute to healthier forests and improved water retention during storms.

In conclusion, the Truckee Chamber of Commerce supports the Alpenglow Timber Sawmill Project as a forward-thinking and critical initiative that aligns with our community's goals of sustainability, economic growth, and wildfire resilience. We urge you to support the Planning Commission's approval of the project and ensure this beneficial project moves forward.

If you have any further questions or would like to discuss this matter in more detail, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to be 'JP', with a long horizontal stroke extending to the right.

Jessica Penman  
President & CEO  
Truckee Chamber of Commerce

A handwritten signature in blue ink, appearing to be 'R. Whittington', with a long horizontal stroke extending to the right.

Ravn Whittington  
Board Chair  
Truckee Chamber of Commerce

Comments to Nevada County Supervisors  
Alpenglow Project

Mitigated Negative Declaration (EIS24-004) and Conditional Use Permit(CUP23-004)

1. The Fire Report Submitted by Donald Mooney and prepared by Dr. Chad Hanson, PhD with the John Muir Project, provides convincing material that forest thinning should be stopped and that the Apenglow project being funded to dispose of lumber for forest thinning should not be built. Before proceeding with this project, county supervisors must require an EIS/EIR (Environmental Impact Study/ Environmental Report). Based on the comments of the Planning Commission, this project was approved because of the perceived need to dispose of forest material from thinning the forest. Though the material in the Hanson report was publicly available, I had no knowledge of it, nor do I believe the Planning Department or the Planning Commission. The material basically says this project will increase the potential for a wildfire by increased forest thinning resulting in faster moving, and more intense fire based on multiple studies included in the report.

Five years ago, I almost lost my house to the Oak fire that burned up to my neighbor's driveway less than 100 feet from my house. Right now, I am more at risk than I was at that time. Nevada County cut a shaded fuel break that is on a vacant 6-acre parcel 300 feet from my property in Grass Valley. The picture on the left below is of the shaded fuel break on the property. As you can see, there is very tall, dry grass. Clearly, a fire can move through this quickly and intensely, as discussed in the Hanson report submitted to you.



These pictures are of adjacent properties in the South County Shaded Fuel Break. The one on the left is a vacant 6-acre parcel. The one on the right has been well-maintained. But if this is what happens on a small parcel after thinning, how do you, as supervisors, propose to maintain thousands of acres once they are thinned in Nevada County? If you approve this project, you are taking on that responsibility. Is that what you want to do? Or do you want to require an environmental impact study and get more information before approving this project and make sure you are not promoting increased fires in Nevada County? The studies referenced in the

Hanson report show that our intuitive thought that thinning the forest is good is shown to be very wrong. I have taught the history of science. Throughout human history, we have often been wrong, and it takes courage to change our thinking, but when we do, we usually end up with a better result. Let's figure this out and do more study before moving ahead with this project.

My qualifications for making these comments are: One, I have a PhD in plasma physics, Two, I have worked as an expert analyzing spontaneous combustion fires (coal dust fire spontaneous combustion in cement plant) and successfully defense of a client in a suit involving a spontaneous combustion fire in a gold refining plant that had resulted in a \$30 million loss, and I have calculated the combustibility of products from urea to ammonia process. I am also currently the co-chair of the Buck Oak Firewire Safe Community, which has involved a fire risks assessment that was approved by Cal Fire. Based on the Hanson report, we must modify our local Firewise Community risk assessment and determine how to control ground vegetation that grows after creating a shaded fuel break. This is a more significant issue than the Alpenglow project. By requiring the Hanson report to be included in an EIS that analyzes the need for the Alpenglow project from an environmental standpoint, you can generate information needed to help determine how to reduce the impact of forest fires in Nevada County.

## 2. Additional Fire Hazard

At the planning commission hearing, David J. Mercer, Managing Member, Hundred Acre Wood, stated the project would not be storing large quantities of wood dust or wood chips and implied the pictures of sawmill fires did not apply. However, the permit application clearly says the boiler plant and kilns will operate 24 hours a day, seven days a week, but the processes for wood products to be burned in the boiler will only be operated 6 days a week and for up to 15 hours a day. This means that wood chip and wood dust storage must be part of the facility. Any storage of wood dust and wood chips presents a fire risk from the spontaneous combustion of static electricity. This fire hazard needs to be fully addressed before the approval of this project. Mercer's statement at the planning commission was misleading, and the supervisor will be negligent in approving this project without addressing the misleading statement made to the planning commission. Mercer also did not address that he plans to service his forest thinning machines at the facility and that work will likely include metal cutting and welding, both of which generate sparks that can set wood dust and wood chips on fire. It has been stated that Cal Fire has reviewed the project's fire hazards. Who actually did the review? Did they have a bias since Cal Fire is a financial sponsor of the project? The county supervisors need to require an independent fire analysis of the Alpenglow project before approving this project.

## 3. The Alpenglow Project Does Not Comply with the Nevada County General Plan

The Alpenglow Project does not comply with multiple policies in the Nevada County General Plan:

Policy 1.3.1 Provide for a land use pattern compatible with preservation of character, environmental values and constraints, and the form and orderly development of Rural Places.

Approval of the Alpenglow project vacates this policy.

Policy 1.3.2 Within the Rural Regions, growth is provided for only those types and densities of development which are consistent with the open, pastoral character which exists in these areas.

Approval of the Alpenglow project vacates this policy.

#### GOAL 1.6

Allow for growth while protecting, maintaining and enhancing communities and Neighborhoods.

Policy 1.6.1 Establish land uses which protect, enhance, and complement existing communities and neighborhoods.

Approval of the Alpenglow project does not protect, maintain or enhance the current Klondike Flat and Silverado Way community and neighborhood. Thus vacating this general plan goals.

The Alpenglow project should be treated as an industrial project. it has to have a separate entrance to achieve the following requirements of the Nevada County General plan. The Nevada County Planning Department ignored this part of the Nevada County General Plan.

n Industrial (IND) is intended to provide for areas in which goods are produced, distributed, and warehoused, along with supporting business and service uses. Locations within this designation should be able to provide buffering from adjacent land uses to minimize incompatibility and should have convenient, **controlled access to arterial or major collector roads without passing through residential areas.**

The supervisors need to require the planning to modify the project so it is consistent with the goals of the general plan. We would propose to have the US Forest Service do a land swap, move the project 1500 feet to the south, and grant a separate right way across forest land. First, an EIR must be required, but this should be considered part of the EIR.

4. Klondike Flat is a Private Road, and the Project Puts an Unfair Burden on the Current Property Owners

To the Nevada County Board of Supervisors,

Alpenglow Project

Mitigated Negative Declaration (EIS24-004) and Conditional Use Permit(CUP23-004)

My name is

Andrew Heath Spencer

I worked as a Licensed California Realtor in the Tahoe / Truckee region for two decades and have been a business owner and resident for 3 decades. I am also a property owner of an adjoining property to the proposed Alpenglow Timber project.

Article 1, Section 19 of the California Constitution states: "Private property may not be taken or damaged for public use without just compensation." This clause provides a constitutional right to compensation when private property is damaged by public projects or actions. The Alpenglow project has been approved by the Nevada County Planning Commission based on the need to process lumber from thinning forests, mainly US Forest Department lands and lands conservatory organizations based on an assumed need to thin the forest to reduce forest fire risk for the good of the public.

However, little consideration has been given to the damage to the adjacent neighboring properties. The estimated degraded value of the properties attached list shows the potential loss in value. We have discussed the potential impact with Kristen Renfro, partner, Desmond, Nolan, Livaich & Cunningham in Sacramento CA. There is a potential of an inverse condemnation action. According to the attorney and the case law we have found, the basis of the claim will be determined by the impact of the project once felt – the physical intrusion of noise, dust, fumes, etc. – and the cause of action won't accrue until the damage-producing activity begins. Which would potentially start during the 3 year proposed construction period.

If the county supervisors decide to approve this project, they need to take into consideration that there is a significant potential for an inverse condemnation action for multiple reasons. Three potential reasons are discussed below with references to supporting cases.

One, as stated in the permit application, the project will generate noise from the mill operations, machinery repair work, and traffic noise, particularly with logging trucks going up and down a steep grade on Klondike Flat Road. This road runs within 10 feet of residential property lines. We are sure the supervisors have experienced the noise of heavy trucks going up or down a steep grade.

In order to summarize the below cases that are known negative impacts from the Neg-Dec already discussed. Noise, Air quality and Fire risk are all backed by case law for potential Inverse Condemnation. The board should understand that the median home price in Truckee

currently is \$1.4 million dollars. The developed parcels that would be affected could see as much as a 30-40% drop in value from the potential impacts. On the low side this could result in \$5.88M dollars in lost property value just on the developed parcels. Add in legal fees and other punitive damages and the losses could exceed \$10M. All the case law and supporting information has been supplied to you all prior to today's meeting.

We are aware that the article at <https://www.elr.info/sites/default/files/litigation/16.20373.html> says If there is no physical taking of the owner's property, there is ordinarily no claim for damage due to noise unless there is a showing of special damage to the abutting land. However, The article at <https://crp.trb.org/selected-studies-law/wp-content/uploads/sites/20/2019/11/SSTLv2-5-Section-3.pdf> says In an earlier case, *Dennison v. State*,<sup>14</sup> the court permitted noise to be considered as an element of damage to the remainder when taken into consideration with other damages. As a concurring opinion stated, however, the court was "not, contrary to intimations in the dissenting opinion, "[accepting] future traffic noise as an element of consequential damage" ...in 'quite unrestricted form....'"<sup>15</sup> Rather, the reason that compensation for noise was appropriate in that particular case had to do with the property's "quietude, the tranquility, and the privacy..., qualities which the claimant prized and desired and which undoubtedly are items that would be taken into account by an owner and a prospective purchaser in fixing the property's market value." The tranquility and privacy qualities are essential to the value of the existing properties and residences adjacent to the Alpenglow project.

The second issue is odors. The facility will have a kiln for drying operating at a temperature of 200 deg F. Air emissions are given in the attached report [epa-region-10-lumber-drying-ef-january-2021.pdf](#)

Some of these emissions are hazardous VOC. The only control on the kiln emission stated in the permit application is operating at a temperature of 200 deg F. There 20 residential properties that may be impacted by emissions from kiln. In addition, diesel emissions from the logging trucks will impact air pollution on these properties. Boiler emissions from the combustion of wood chips and dust may also be problematic.

The case of *Varjabedian v. City of Madera* (1977) shows that odors can result in an inverse condemnation. <https://scocal.stanford.edu/opinion/varjabedian-v-city-madera-30455>

A third issue is the fire risk that the plant presents to the adjacent properties and to the community of Truckee. There will be a fire risk because chips and dust will be stored to feed the boiler for heating buildings and drying wood. Dust from milling equipment and probably from sawing operations will be moved by air.. If there is ever a failure of the grounding system, static

electricity can develop and cause a fire. Mercer himself has admitted that stored wood chips can spontaneously combust. The permit must state that the **NFPA 230, Standard for the Fire Protection of Storage (2003) will be followed**. However, even the standard will be a fire risk just because of the amount of wood being processed close to residential properties. Reference on storage requirements

<https://newson-gale.com/knowledge-hub/as05-controlling-dust-explosions/>

The permit needs to have limit on wood chip and wood dust storage..

Barham v. Southern California Edison Co. (1999): This case dealt with a fire caused by power lines that led to property damage. The court found that the utility could be held liable for creating a foreseeable fire risk that resulted in property damage, supporting the argument that increased fire risk can be grounds for compensation.

<https://casetext.com/case/barham-v-southern-cal-edison-co>

We understand the difficulty of an inverse condemnation based on a CA appeals court ruling overruling an award for dust and noises from freeway expansion

<https://www.eminentdomainreport.com/court-clarifies-inverse-condemnation-liability>

The need to expand a freeway is different than the proposed Alpenglow project. The expansion was in the excessing right way, and the property owner was aware of the right way when purchasing the property, so took on the risk. There was no opinion for public use. In the Alpenglow case, there is no reason a land swap could not be done, and the project boundary could be moved 1500 feet to the south with a separate entrance to the Alpenglow project. In addition, the project owner desires and is willing to fund a new entrance to the property per a private conversation between David Mercer and Herbert Spencer. Moving the project would involve Mercer giving up his current easement across US Forest Service land and solving the issue of having an existing easement that locks Mercer from getting a separate easement. Mercer said he could not get a separate easement because of a law limiting the U S Forest Service to granting only one easement. There also is the issue of whether the public funding of part of the Alpenglow project is justified based on the Chad hanson- report and whether the planning commission would have approved the project if they had the report showing forest thinning is not a good means for slowing down forest fires and minimizing fire intensity.

Websites discussing inverse condemnation

<https://www.lawinc.com/understanding-inverse-condemnation-california>

[https://www.counties.org/sites/main/files/file-attachments/inverse\\_condemnation\\_fact\\_sheet\\_league\\_csac.pdf](https://www.counties.org/sites/main/files/file-attachments/inverse_condemnation_fact_sheet_league_csac.pdf)

Before approving this project the Board of Supervisors needs to determine if it is legal for the county to mandate the modification of a private road to a two-lane paved road without the approval of all of the properties currently responsible for maintaining the road. There seems to be no mention of future road maintenance except for snow removal in the permit application. Nor is there any indemnification requirement for the applicant to indemnify the current property owners or provide liability insurance to protect the current property owners from increased traffic, including logging trucks. As the former president of a local road association, I know that current state and county law requires all property owners on a private road to be responsible for proportional road maintenance per the CA Civil Code 845. However, in Nevada County the Albert Dover decision defines proportional use as the square footage of road used from the entrance of the private road from a public road to the owner's property entrance. This means the property with the most distance from the entrance of a dead-ended private road bears the largest expense of the maintenance of the road independent of the traffic or type of traffic. The Alpenglow project puts an unknown and expensive burden on the current property owners for road maintenance and liability in Nevada County. The supervisor must address this issue before approving this project. This is a problem for this project and other projects where Nevada County issues permits that result in industrial traffic and heavy truckloads on private roads.