

**From:** [REDACTED]  
**Cc:** [BOS Public Comment](#)  
[Julie Patterson-Hunter](#)  
**Subject:** re Appeal response Andresen  
**Date:** Friday, September 18, 2020 4:55:15 PM  
**Attachments:** [Appeal Letter Part 5.pdf](#)  
[Part 6 Board letter.pdf](#)

---

**CAUTION:** This email originated from outside of County of Nevada email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Honorable Board  
Here is Part 5 and 6  
Thank you for your consideration regarding this appeal.  
Larry and Cheryl Andresen



# ENCROACHMENT PERMIT APPLICATION

COUNTY OF NEVADA  
COMMUNITY DEVELOPMENT AGENCY  
DEPARTMENT OF PUBLIC WORKS  
950 MAIDU AVENUE, NEVADA CITY, CA 95959-8617  
(530) 265-1411 FAX (530) 265-9849  
www.mynevadacounty.com

COUNTY USE ONLY  
Permit # 19-0096

## TO BE COMPLETED BY APPLICANT

### APPLICANT/PROPERTY OWNER

Name: LARRY ANDRESEN  
Address: [REDACTED]  
City/State/Zip: TRUCKEE, CA 96160  
Email: [REDACTED]  
Phone-cell: [REDACTED]  
Phone-other: [REDACTED]

### CONTRACTOR:

Name: ANDRESEN CONST. INC  
Address: [REDACTED]  
City/State/Zip: [REDACTED]  
Email: [REDACTED]  
Phone-cell: [REDACTED]  
Phone-other: [REDACTED]  
Contractor's License: 376065

### ENCROACHMENT DETAILS

Encroachment Location/Site Address: [REDACTED] FLORISTON AVENUE, TRUCKEE, CA  
Event or Work start date: 7-10 DAYS - ASAP  
Event or Work end date: TOTAL PROJECT ESTIMATED TO TAKE 1 HOUR  
Description of even or work to be performed: REMOVE ROADWAY OBSTRUCTION 6 TREE/RUSH ROCK LINED PLANTER & TOPSOIL - REPLACE W/ 8" 3/4" TYPE II AB COMPACT TO 95%

### ENCROACHMENT TYPE

#### Construction

- Standard Driveway
- Private Road
- Parking Pad
- Other (Description of Other): \_\_\_\_\_
- Aggregate Surface
- Asphalt Concrete
- Concrete Surface
- Culvert
- Diameter \_\_\_\_\_ (in)
- Length: \_\_\_\_\_ (ft)
- No Drainage
- Valley Swale

#### Utilities

- Power
- Phone
- Water
- Sewer
- Cable TV
- Overhead
- Underground
- Other (Description of Other): \_\_\_\_\_
- Service Connection
- Mainline Extension
- Mainline Relocation
- Tree Work

#### Special Events

- Filming
- Athletic
- Parade
- Other

This permit is approved subject to payment of fees and Permittee's acceptance of conditions of approval. The start of any specified work shall constitute acceptance of all provisions. The permit shall become void if all work or event is not completed before the expiration date and is revocable at any time. Any voided or revoked permit shall become a violation, which will be handled in accordance with applicable State and County Regulations.

Applicant Signature: [Signature] Date: 9-9-2019

Printed Name: LARRY ANDRESEN

### FOR COUNTY STAFF USE ONLY

Exhibits	Fees	Qty	Total	Grand Total
<input type="checkbox"/> Traffic Control Plan	<input type="checkbox"/> Construction/Driveway	\$364.52	_____	_____
<input type="checkbox"/> Site Plan	<input type="checkbox"/> Admin/Event	\$129.72	_____	_____
<input type="checkbox"/> Insurance Certificate	<input type="checkbox"/> Additional Inspection	\$117.40	_____	_____
<input type="checkbox"/> Law Enf. Support	<input type="checkbox"/> Bond Deposit	\$ _____	_____	_____

### Status

- Approved w/Conditions: \_\_\_\_\_ Date Issued: \_\_\_\_\_
- Denied By: \_\_\_\_\_ Date: \_\_\_\_\_
- Finaled By: \_\_\_\_\_ Date: \_\_\_\_\_ Date Exp: \_\_\_\_\_

Trisha Tillotson  
950 Maidu Avenue  
Suite 170  
Nevada City, Ca 95959

Hi Trisha,

Received your email about rescheduling our meeting, sorry about you not feeling well. We would like to reschedule as soon as your available, let us know what day will work for you. We are concerned about wildfire safety especially for the effects the obstructed and often completely blocked access at the narrowed area of the bush on the "fire access road" that serves access to our homes and property.

While we look forward to discussing the complete road improvement project with you, immediate improvement in safety can be accomplished with removal of the large obstruction caused by this bush/planter in front of 10930 Floriston Avenue.

Out of concern for safety for lives and property and to achieve a relatively simple improvement we respectfully submit an encroachment permit application to remove the bush/planter. You may be already be aware this bush/planter obstructs approximately 80% of the dedicated public roadway. (33' out of the 40' wide public ROW)

Removing this planter/bush will eliminate a dangerous blind line of sight roadway corner and allow for room for vehicles to pass in both directions mitigating the commonly blocked access at this spot.

Delivery trucks including LPG trucks frequently park and block this spot by the bush making it impassable during those times. Gas hoses rolled out across roadway to locations far from road, drivers have no other option as there only one lane.

The proposed project involves removing the bush and surrounding planter rocks and replacing and compacting with 8" of  $\frac{3}{4}$ " aggregate road base matching all existing grades.

The project is expected to be completed in about 1 hour and will not require any traffic control or lane closures.

The project will not change any grades or drainages.

Please let me know if you have any questions or concerns regarding this proposed safety improvement project which will be definitely be an improvement for wildfire safety by way of improved access.

We are in an extreme high-risk wildfire area and the **national interagency fire center, predictive services** has predicted "**above normal significant wildfire potential**" "**significant wildfires should be expected** at typical times and intervals during normal significant fire potential conditions"

We hope this permit can be processed quickly so we can proceed with these improvements as the safety of lives and property are being jeopardized by this compromised access condition.

We also look forward to meeting you to discuss the complete proposed road widening improvements as soon as you can, but for now for some immediate relief we would like remove this dangerous road obstruction condition as soon as possible.

This could be a vital precursor to being able to save a life or property.

Thank you,

Larry Andresen, [REDACTED]

## Supplemental Outline Regarding Floriston Avenue Roadway Obstruction Removal

(see attached exhibits referenced by item number 1-17)

- 1) Photos, Pgs. 1A,1B,1C,1D, illustrating tree/bush/planter proposed to be removed
- 2) Pgs. A-H Judgement order filed with Superior Court stipulating Rivara's acknowledge ownership of fee title to Floriston Avenue road center including area containing the bush/planter.
  - a) Pg.2-F line 14,15 # 7, The encroachments within Floriston Avenue are a public nuisance under Nevada County Code, G-IV 4.A.2 and G-IV 4.A 40
  - b) Pg. 2-F Line 18,19 # 9, Rivas do not and will not object to the removal of any encroachment located within Floriston Avenue
  - c) Pg.2-F Line 20-23 # 10 Line 20-23 , Rivas permit and authorize removal of the encroachments within Floriston Avenue, including but not limited to, the large willow/birch tree /bush and rock planter located directly in front of the Rivara property within Floriston Avenue.
- 3) Richard and Mary Fehrt's correspondence to Andresens
  - a) Fehrts state they acknowledge that the tree island in front of their cabin is the property of Nevada County and that the decision remains with Nevada County as to its fate.
- 4) Fire Marshall letter stating Fire Marshall supports road improvements that can be made to improve the egress of citizens and the ingress of emergency vehicles in times of emergency incidents.
  - a) Fire Marshall supports improvements to existing roadways that currently do not meet Nevada County's minimum road standard of "Fire Standard Access Road"
- 5) Letter from Engineer, DDA, addressing road improvements and possible existing conditions
  - a) Analysis and mitigation measures that address concerns that may arise from bush/planter removal effects to possible existing septic system
  - b) Reference to design parameters regarding Rural Road System Site Line Distances which are shown on Standard Drawing A-6. To comply with these requirements, obstructions greater than 3.5 tall within ROW must be removed.
- 6) County Code Required Site Line At intersections /Driveways A-6
  - a) Specifies Minimum Sight Line Minimum Distances
- 7) County Code Fire Standard Access Road C-1
  - a) Specifies two lane Road minimum road width to be 20' which allows for the passing of two vehicles on a two-way traffic road
- 8) Reference to Streets and Highway code 1480

- a) The "highway" includes all or any part of the entire width of right of way of a county highway, whether such area is actually used for such highway purposes
  - b) The term "encroachment" includes any structure or object of any kind or character placed, without the authority of law. Either in, under or over any county highway
- 9) Reference to Streets and highway code 1480.5
- a) The road commissioner may immediately remove, or by notice may require the removal of, any of the following encroachments:
  - b) An encroachment which obstructs or prevents the use of a county highway by the public
  - c) An encroachment that is a traffic hazard.
- 10) Reference Streets and highway code 1460
- a) The road commissioner may issue written permits, as provided by this chapter, authorizing the permittee to do any of the following acts;
  - b) Plant, remove, cut down, injure or destroy any tree shrub, plant or flower growing within any county highway.
- 11) Reference to RESOLUTION No. 19-070 THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA
- a) RESOLUTION ADOPTING THE 2019 BOARD OBJECTIVES AND LEGISLATIVE PRIORITIES FOR NEVADA COUNTY
  - b) WHEREAS, the list of objectives includes generally prioritized items as levels A, B and C "A" indicating the highest priority and "C" indicating a lower priority
  - c) Priority "A" REDUCE THE RISK OF LOCAL WILDFIRE AND THE EFFECTS OF WILDFIRE ON LIFE, PROPERTY AND THE ENVIRONMENT BY PROVIDING LEADERSHIP AND SUPPORT TO COMMUNITY PARTNERS.....ASSISTING THE PUBLIC TO BE "WILDFIRE READY"
- 12) Reference National Interagency Fire Center Predictive Services
- a) Significant Wildland Fire Potential "Above Normal"
- 13) Reference CAL FIRE Office of the State Fire Marshall
- a) VERY HIGH FIRE HAZARD SEVERITY ZONE includes the Hirschdale and surrounding area
- 14) 6/10/16 Correspondence from Troy Adamson/CALFIRE To Matt Furtado in response to proposed Floriston Avenue road widening improvements,  
Troy states "My perspective is as fire we should support this"
- 15) 6/15/16 Correspondence from Matt Furtado/ CALFIRE to Troy Adamson/CALFIRE ; in reference to road improvement plan submitted by Larry Andresen for widening of Floriston Avenue. Matt Furtado states, "I agree that we should support this"
- 16) 6/21/16 Correspondence from Matt Furtado to Steven Castleberry; "We certainly are in support of any improvements that could make the road as close to the county standards as possible"
- 17) County Public Works Director/Road Commissioner PMK Testimony Attachment

(1A)

BUSH / TREE  
PLANTER REMOVAL



(1A)



18

18

10  
PARKING  
AMT  
TIME

0230

Peterson

12



12

19

BUSH RAMBLE

06/12/2016

19



06/17/19 05:49

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

MICHAEL B. BROWN (SB #179222)  
michael.brown@stoel.com  
JONATHAN A. MILES (SB #268034)  
jonathan.miles@stoel.com  
STOEL RIVES LLP  
500 Capitol Mall, Suite 1600  
Sacramento, CA 95814  
Telephone: 916.447.0700  
Facsimile: 916.447.4781

Attorneys for Plaintiffs  
Larry and Cheryl Andresen

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF NEVADA

JUL 01 2019

JASON B. GALKIN  
EXECUTIVE OFFICER & CLERK  
By: \_\_\_\_\_, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF NEVADA, NEVADA CITY BRANCH

LARRY ANDRESEN; and  
CHERYL ANDRESEN,  
  
Plaintiffs,

V.

JOHN MINNIS;  
MIRIAM MINNIS; et al.,  
  
Defendants.

CASE NO. TCU17-6612

Assigned For All Purposes To Judge Robert  
Tice-Raskin, Dept. 6

[PROPOSED] JUDGMENT PURSUANT  
TO CODE OF CIVIL PROCEDURE  
SECTION 998

**FILE  
BY FAX**

Action File: March 3, 2017  
Trial Date: None

AND RELATED CROSS-ACTION.

2A



# EXHIBIT 1

20

1 MICHAEL B. BROWN (SB #179222)  
2 michael.brown@stoel.com  
3 JONATHAN A. MILES (SB #268034)  
4 jonathan.miles@stoel.com  
5 STOEL RIVES LLP  
6 500 Capitol Mall, Suite 1600  
7 Sacramento, CA 95814  
8 Telephone: 916.447.0700  
9 Facsimile: 916.447.4781

10 Attorneys for Plaintiffs  
11 Larry and Cheryl Andresen

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 COUNTY OF NEVADA, NEVADA CITY BRANCH

14 LARRY ANDRESEN; and  
15 CHERYL ANDRESEN,

16 Plaintiffs,

17 V.

18 JOHN MINNIS;  
19 MIRIAM MINNIS; et al.,

20 Defendants.

21 AND RELATED CROSS-ACTION.

CASE NO. TCU17-6612

Assigned For All Purposes To Judge Robert  
Tice-Raskin, Dept. 6

PLAINTIFFS' OFFER TO COMPROMISE  
TO RIVARA DEFENDANTS

[Code of Civil Procedure § 998]

Action File: March 3, 2017  
Trial Date: None

1 **TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:**

2 Plaintiffs Larry Andresen and Cheryl Andresen ("Plaintiffs"), pursuant to California Code  
3 of Civil Procedure section 998, hereby offer to compromise the claims of Plaintiffs in the First  
4 Amended Complaint, filed on or about July 24, 2017, against Defendants Peter H. Rivara,  
5 individually and as Trustee of the Peter and Jamie Rivara Living Trust dated December 7, 2012,  
6 and Jamie T. Cole, individually and as Trustee of the Peter and Jamie Rivara Living Trust dated  
7 December 7, 2012 (together, "Defendants") upon the following terms and conditions:

8 1. If the Offer is accepted, Defendants will agree to entry of judgment on the First  
9 Amended Complaint against Defendants on the following terms:

10 2. Plaintiffs are, and at all times mentioned herein were, owners of certain real  
11 property located at 10953 Floriston Avenue, in the unincorporated area of Hirschdale, Nevada  
12 County, California, and identified as Assessor's Parcel Number 48-120-21, and more fully  
13 described in the Grant Deed attached to this Complaint as **Exhibit A** as follows:

14 All that portion of Section 34, Township 18 North, Range 17 East,  
15 M.D.B.&M. and Lot 33 of Hirschdale on the Truckee, as per the  
16 Official Map thereof, on file in the office of the County Recorder of  
Nevada County, California, in Book 1 of Subdivisions Maps, at  
Page 37, described as follows:

17 Commencing at the Northwest corner of said Lot 33, of Town of  
18 Hirschdale, a point in the East line of Juniper Way, as shown upon  
the official Map of said Lot 33, and Lot 34 of Hirschdale and along  
19 the line common to said Lot 33, and Lot 34 of Hirschdale, and  
along the Easterly extension to said line, a distance of 227.37 feet to  
20 a point in the Southwesterly line of Floriston Avenue, thence along  
the Southwesterly line of Floriston Avenue, South 23° 00' East  
21 66.58 feet, thence leaving said Southwesterly line of Floriston  
avenue, South 89° 54' 30" West 153.48 feet to the Southeast corner  
22 of said Lot 33, of Hirschdale thence along the South line of said  
Lot 33, North 83° 37' West 100.45 feet to a point in the East line of  
said Juniper Way; thence along said East line of Juniper Way,  
23 North 0° 05' 30" West 50.00 feet to the point of ending.

24 In addition, Plaintiffs own fee title to the centerline of the portion of Floriston Avenue abutting  
25 the above-described property, and more particularly described in **Exhibit B**, attached hereto and  
26 incorporated herein by reference. Collectively, this property is hereinafter referred to as the  
27 "Andresen Property."

1           3. Defendants reside and own certain real property located in the unincorporated area  
2 of Hirschdale, Nevada County, California, at 10930 Floriston Avenue, and identified as  
3 Assessor's Parcel Number 48-120-40 ("Rivara Property"). The Rivara Property is more fully  
4 described in the Quitclaim Deed attached hereto as **Exhibit C**.

5           4. Plaintiffs are the owner in a fee simple title of the Andresen Property and that  
6 Defendants, and each of them, have no right, title, or interest in the Andresen Property adverse to  
7 Plaintiffs' interest therein.

8           5. Nevada County is the owner of a dedicated easement for the right-of-way for  
9 Floriston Avenue as dedicated and accepted by Sub. 1-37 June 8, 1926 ("Floriston Avenue").

10          6. Defendants have no ownership and/or other interest in any encroachment located  
11 within the right-of-way commonly referred to as Floriston Avenue, including, but not limited to,  
12 the large willow/birch tree/bush and rock planter ("Encroachments") located directly in front of  
13 the Rivara Property within Floriston Avenue.

14          7. The Encroachments within Floriston Avenue are a public nuisance under Nevada  
15 County Code §§ G-IV 4.A.2 and G-IV 4.A.40.

16          8. The Encroachments within Floriston Avenue unlawfully obstruct the free passage  
17 and use of Floriston Avenue.

18          9. Defendants do not and will not object to the removal of any encroachment located  
19 within Floriston Avenue, including, but not limited to, the Encroachments.

20          10. To the extent Defendants' permission or authority is necessary, Defendants permit  
21 and authorize the removal of the Encroachments within Floriston Avenue, including, but not  
22 limited to, the large willow/birch tree/bush and rock planter located directly in front of the Rivara  
23 Property within Floriston Avenue.

24          11. Plaintiffs and Defendants are to each bear their own costs and attorneys' fees.

25          12. If this Offer is not accepted and notice given by Defendants within in the time  
26 required prior to trial as provided by California Code of Civil Procedure section 998, then it shall  
27 be deemed withdrawn if not otherwise revoked earlier.

28

2F

1           13. Please be advised that, pursuant to Code of Civil Procedure section 998(b),  
2 (c), if this offer made by Plaintiffs is not accepted within the time specified prior to trial,  
3 and Defendants fails to obtain a more favorable judgment, Defendants shall not recover its  
4 costs and shall pay Plaintiffs' costs from the time of the Offer. Further, the Court, in its  
5 discretion, may require Defendants to pay Plaintiffs' costs from the date of the filing of the  
6 Complaint and a reasonable sum to cover costs of the services of Plaintiffs' outside expert  
7 witnesses, who are not regular employees, actually incurred and reasonably necessary in  
8 either, or both, the preparation or trial of this case by Plaintiffs.

9           14. Defendants may indicate acceptance of the above described Offer to Compromise  
10 by executing the accompanying Notice of Acceptance of Offer to Compromise and returning  
11 same to counsel for the offering party. Counsel for Plaintiffs' filing of the Offer to Compromise  
12 along with the executed Notice of Acceptance shall comply with Code of Civil Procedure  
13 section 998(b)(1).

14           15. Upon the service of the Notice of Acceptance of Offer by the Defendants, the  
15 Court shall enter a judgment on Plaintiffs' First Amended Complaint against the Rivara  
16 Defendants only in accordance with the terms herein.

17 Dated: March 19, 2019

STOEL RIVES LLP

18  
19 By:   
20 Michael B. Brown  
21 Jonathan A. Miles  
22 Attorneys for Plaintiffs and Cross-  
23 Defendants Larry and Cheryl Andresen  
24  
25  
26  
27  
28

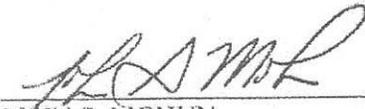
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ACCEPTANCE

The undersigned accept Plaintiffs Larry Andresen and Cheryl Andresen's offer to allow judgment to be entered as specified above.

LAW OFFICE OF JOHN S. MOHUN

DATED: 4/5/2019

By: 

JOHN S. MOHUN  
Attorneys for Defendants  
Peter H. Rivara, individually and as Trustee of the  
Peter and Jamie Rivara Living Trust dated  
December 7, 2012, and Jamie T. Cole,  
individually and as Trustee of the Peter and Jamie  
Rivara Living Trust dated December 7, 2012

211

**From:** Mary and Dick Fehrt [REDACTED]  
**Sent:** Sunday, November 25, 2018 10:32 AM  
**To:** [REDACTED]  
**Subject:** Recent correspondence received from Stoel Rives

Good Morning Larry and Cheryl –

We recently found correspondence on our door step from attorneys that represent you regarding our water main box and the tree island in front of our home. We do not see any purpose to this correspondence inasmuch as the water main box is the property of the Truckee/Tahoe PUD and the tree island in front of our cabin is the property of Nevada County. We requested the Truckee/Tahoe PUD to change the water main box as it was much too heavy for us to lift (over 100 lbs.) and required a special lifting tool. The new water main box has a plastic lid and is easily lifted for access. The tree island in front of our cabin has been in place for over 45 years and only learned recently that it is the property of Nevada County. We would very much like the tree island to remain as it gives us privacy and reduces noise and dust from vehicles traveling on Floriston Avenue, but the decision remains with Nevada County as to its fate. We hope you understand our position and are also hopeful that Nevada County comes to a decision regarding Floriston Avenue to our mutual satisfaction in the near future.

Richard and Mary Fehrt

#3

**COUNTY OF NEVADA**  
**OFFICE OF THE**  
**FIRE MARSHAL**

Eric Rood Administration Building  
950 Maidu Avenue  
Nevada City, CA 95959  
(530) 265-1714 FAX#: (530) 265-9851

June 21, 2016

Mr. Larry Andresen  


Re: Floriston Avenue Encroachment Permit #9541

Mr. Andresen,

A review has been completed of the proposed road improvements of Floriston Avenue as referenced by Nevada County Encroachment Permit #9541.

This Office supports improvements to existing roadways that currently do not meet Nevada County's minimum road standard of the "Fire Standard Access Road".

This Office is not mandating or advocating the taking of personal property that may be encroaching into a Right of Way.

Rather, an approach that will meet the intent of the code and may not meet the letter of the code may be taken. This could be completed by improving line of sight distances, vegetation management, and the meeting of the Fire Standard Access Road in conducive locations to allow passing and safe travel.

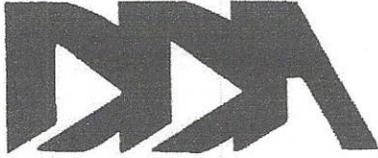
Again, this Office supports road improvements that can be made to improve the egress of citizens and the ingress of emergency vehicles in times of emergency incidents.

Respectfully,

George Morris III  
Fire Marshal  
Unit Chief, Cal Fire

Matt Furtado  
Deputy Fire Marshal  
Fire Captain, Cal Fire

#4



# DENNIS DODDS & ASSOCIATES, INC.

CIVIL ENGINEERING • DESIGN CONSULTATION

10049 MARTIS VALLEY ROAD, SUITE D

TRUCKEE, CA 96161

530-582-1389

---

March 25, 2019

Nevada County Community Development Department  
950 Maidu Avenue  
Nevada City, CA 95959

Re: Floriston Avenue Road Improvement Project dated 1/22/2016

This project was designed and engineered in accordance with the Nevada County Road Design Guidelines and details, with the exception of the 10' FMZ on the West side of the roadway. The Nevada County Road Design Guidelines and details require a 10' Fire Management Zone on both sides of the road within the Right of Way. This would have required locating the road in the center of the ROW.

Several of the homes on the East side of the ROW are located very close or even within the ROW. In consideration of the parking and access requirements for the homes on the East side of the ROW, the road alignment was shifted 7' to the West of centerline. This will provide the homes on the East side of the ROW approximately 17' of open area to the edge of the proposed road.

Local Rural Road System Site Line Distances are shown on Standard Drawing A-6. To comply with these requirements, obstructions greater than 3.5' tall within the ROW must be removed.

Concerns regarding the possibility that the septic system for the residence at 10931 Floriston Avenue may be located beneath the driveway have been raised. The location of the existing septic system has never been verified. In the event that the existing septic tank is encountered during the construction of the Road Improvements, it can be replaced with a traffic rated septic tank and traffic rated risers. Or, if the existing leachfield is located and found to be operating normally, a new septic tank could be installed outside of the ROW, and reconnected to the existing leachfield.

If the existing leachfield is found to be located beneath the existing driveway, it can continue to be driven on by vehicles without increasing the potential for damage.

In consideration of all of these parameters, it is our opinion the proposed road alignment provides the best design to comply with Nevada County Road Design Guidelines, while giving favorable consideration to the residences located on the East side of the ROW.

#5A

If you have any further questions about the proposed Road Improvements, please give me a call.

Yours truly,

*Dennis F. Dodds*

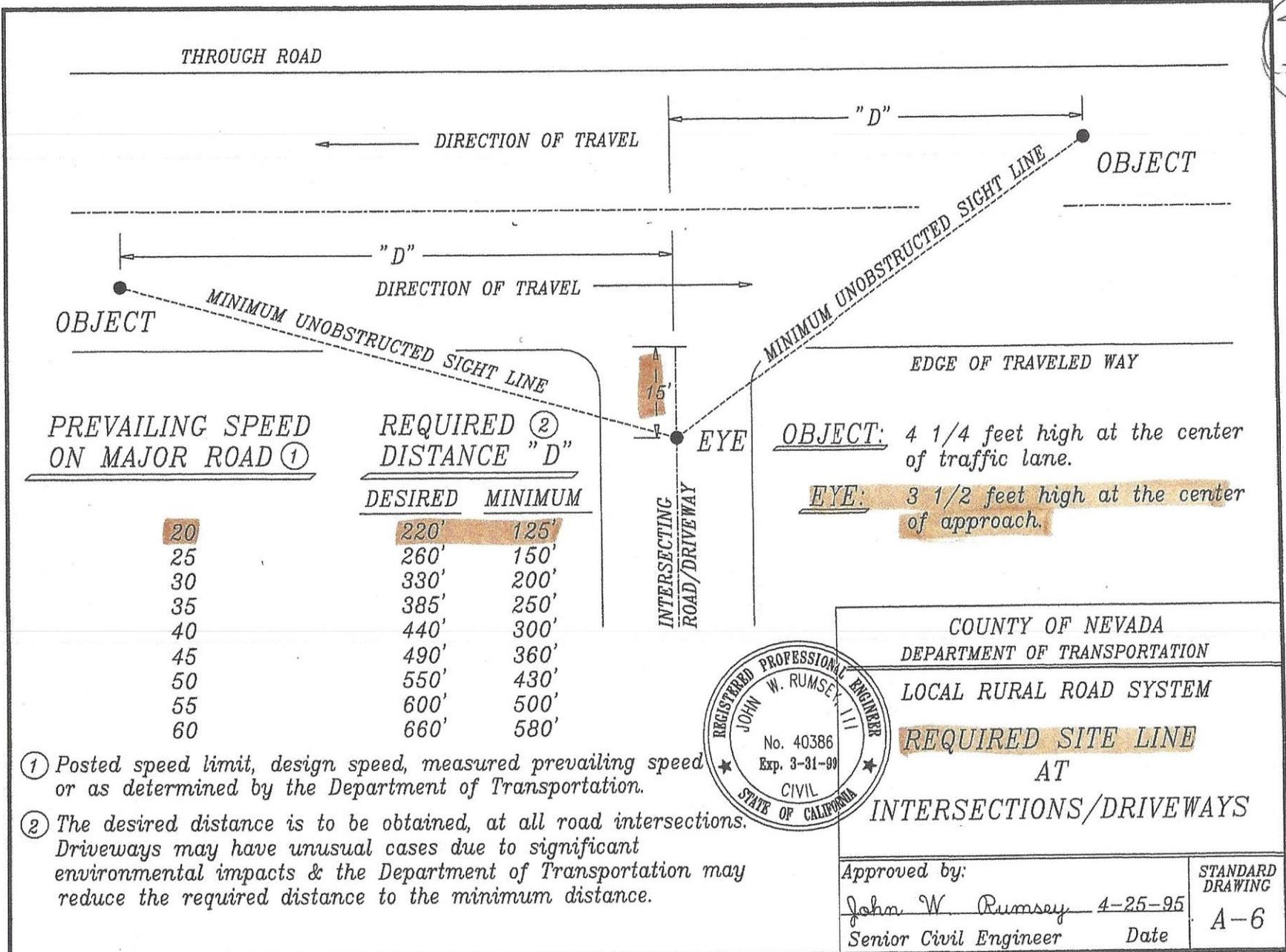
Dennis F. Dodds, PE



3-25-19

#58

#6



PREVAILING SPEED ON MAJOR ROAD ①

REQUIRED ② DISTANCE "D"

	DESIRED	MINIMUM
20	220'	125'
25	260'	150'
30	330'	200'
35	385'	250'
40	440'	300'
45	490'	360'
50	550'	430'
55	600'	500'
60	660'	580'

OBJECT: 4 1/4 feet high at the center of traffic lane.

EYE: 3 1/2 feet high at the center of approach.



COUNTY OF NEVADA  
DEPARTMENT OF TRANSPORTATION

LOCAL RURAL ROAD SYSTEM

REQUIRED SITE LINE

AT  
INTERSECTIONS/DRIVEWAYS

- ① Posted speed limit, design speed, measured prevailing speed or as determined by the Department of Transportation.
- ② The desired distance is to be obtained, at all road intersections. Driveways may have unusual cases due to significant environmental impacts & the Department of Transportation may reduce the required distance to the minimum distance.

Approved by:  
John W. Rumsey 4-25-95  
Senior Civil Engineer Date

STANDARD DRAWING  
A-6

Nevada County Code						
Up	Previous	Next	Main	Search	Print	No Frames
TITLE 2. GENERAL CODE						
CHAPTER IV. GENERAL REGULATIONS						
ARTICLE 4.A. REGULATING ROADWAY ENCROACHMENTS						

**Sec. G-IV 4.A.36 Sight Distance Required**

- A. It is unlawful for any person to maintain his or her property in a manner which creates or causes to exist any obstruction to the view (sight distance) of the users of any County-owned, controlled and/or maintained highway, which creates an unsafe condition to the users thereof.
- B. Any use of the property in violation of the provisions of this Section shall constitute a public nuisance which may be abated by the duly constituted officer of the County of Nevada. The enforcement of this Section shall rest in the sole discretion of the County officers performing such functions.
- C. No encroachments shall be made where to do so would create an unsafe condition to the users of the County highway in violation of the provisions of this Code.
- D. New development which substantially increases the use of any existing encroachment shall not be allowed unless the encroachment is brought into conformity with the sight distance requirement of this Code and other provisions or standards relating thereto.
- E. Any person who is beneficially interested in the decision of the County officials enforcing this Section shall have a right to appeal to the Nevada County Board of Supervisors. No fee shall be charged for any such appeal. All applicants for encroachments shall be advised of their appeal rights by the inclusion of a notice thereof on the County's application form.

View the [mobile version](#).



6B

5

Rev. 5-04-95

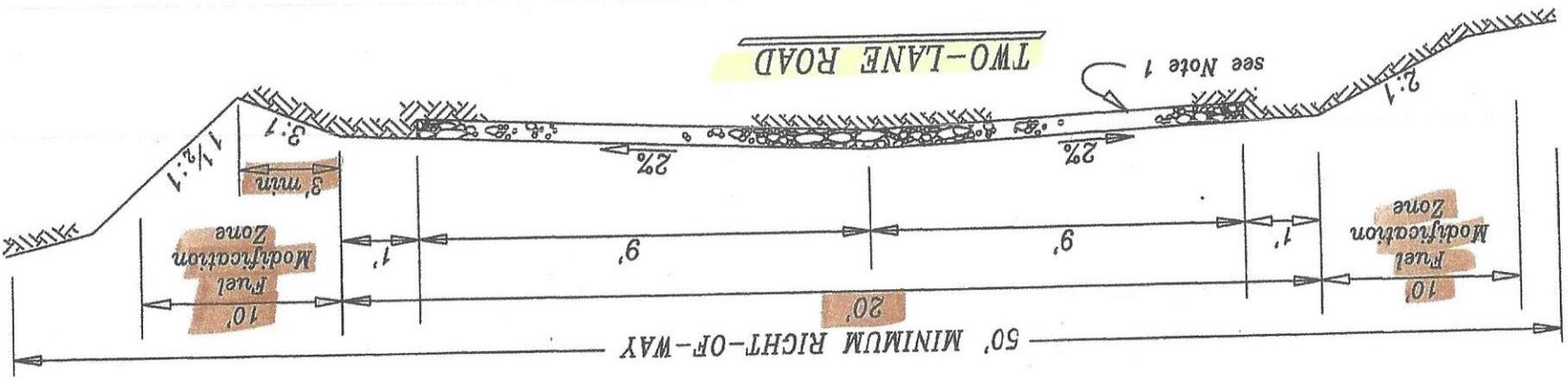
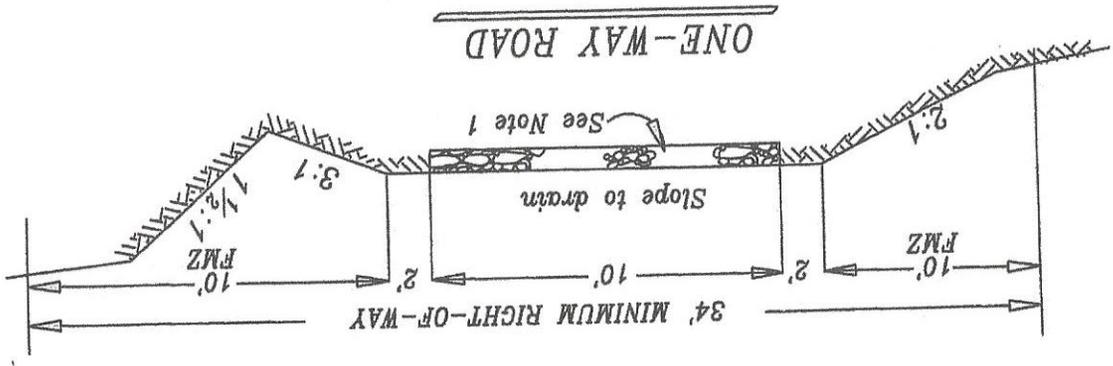
Approved by: John W. Rumsey, Senior Civil Engineer  
Date: 5-04-95  
STANDARD DRAWING C-1



COUNTY OF NEVADA  
DEPARTMENT OF TRANSPORTATION  
LOCAL RURAL ROAD SYSTEM  
FIRE STANDARD  
ACCESS ROAD

1. Minimum surface capable of supporting a 40,000 lb. vehicle with a minimum of 4" A.B., compacted to 95%, placed on a subgrade compacted to 90%.

NOTES:





Code:

Section:



[Up^](#) [Add To My Favorites](#)

**STREETS AND HIGHWAYS CODE - SHC**

**DIVISION 2. COUNTY HIGHWAYS [900 - 1757]** ( *Division 2 enacted by Stats. 1935, Ch. 29.* )

**CHAPTER 6. Obstructions and Injuries to County Highways [1480 - 1496]** ( *Chapter 6 enacted by Stats. 1935, Ch. 29.* )

**1480.** As used in this chapter:

- (a) The term "highway" includes all or any part of the entire width of right of way of a county highway, whether or not such entire area is actually used for highway purposes.
- (b) The term "encroachment" includes any structure or object of any kind or character placed, without the authority of law, either in, under or over any county highway.

(Enacted by Stats. 1935, Ch. 29.)

**1480.5.** The road commissioner may immediately remove, or by notice may require the removal of, any of the following encroachments:

- (a) An encroachment which obstructs or prevents the use of a county highway by the public.
- (b) An encroachment which consists of refuse.
- (c) An encroachment which is a traffic hazard.
- (d) An encroachment which is an advertising sign or device of any description, unless excepted by subdivision (c) of Section 1460. The road commissioner may return such sign or device to its owner, or otherwise dispose of it in his discretion, except that if the commissioner determines in good faith that the sign or other device is of more than nominal value he shall not effect such other disposition until he has made a reasonable attempt to identify and notify the owner of the sign or device and provided a reasonable time for the owner to retrieve it under provisions of this section. The return of such sign or device to its owner may be conditioned upon payment of an amount sufficient to reimburse the road commissioner for the expense of removal.

The road commissioner may recover from the person causing any of the above encroachments, in an action brought in the name of the county for that purpose, the court costs of the road commissioner, the expense of such removal, and any other damages caused by the encroachment.

(Amended by Stats. 1975, Ch. 159.)

**1481.** The road commissioner may, by notice, require the removal of any other encroachment not specified in Section 1480.5 from any county highway.

(Amended by Stats. 1971, Ch. 439.)

**1482.** The notice referred to in Sections 1480.5 and 1481 shall be served upon the occupant or owner of the land, or the person causing, controlling or owning the encroachment, or shall be left at the place of residence of such occupant, owner or person if he resides in the county and is known to the person giving such notice. If the person upon whom notice is to be served does not reside in the county, the notice shall be posted on the encroachment. The notice shall specify the breadth of the highway, the place and extent of the encroachment, and shall require the removal of such encroachment within 10 days.

(Amended by Stats. 1971, Ch. 439.)

**1483.** If the encroachment is not removed, or its removal not commenced and diligently prosecuted, prior to the expiration of 10 days from and after the service or posting of the notice, the person causing, owning, or controlling the encroachment forfeits three hundred fifty dollars (\$350) for each day the encroachment continues unremoved. The road commissioner shall immediately remove an encroachment that effectually obstructs and prevents the use of the highway by vehicles.

#8 & #9

## California Streets and Highways Code

### § 1460

The road commissioner may issue written permits, as provided in this chapter, authorizing the permittee to do any of the following acts:

- (a) Make an opening or excavation for any purpose in any county highway.
- (b) Place, change or renew an encroachment.
- (c) Place or display in, under or over any county highway any kind of advertising sign or device. Any such sign or device placed or displayed contrary to the provisions of this section is a public nuisance and the road commissioner may immediately remove it. The provisions of this section shall not prohibit the posting of any notice in the manner required by law or by the order of any court of this state.
- (d) Plant, remove, cut, cut down, injure or destroy any tree, shrub, plant or flower growing within any county highway.

Any person who does any of the acts specified in this section, without the authority of such a permit, is guilty of a misdemeanor and is liable to the public agency for all expenses and damages caused thereby.

*Location:* [https://california.public.law/codes/ca\\_sts\\_and\\_high\\_code\\_section\\_1460](https://california.public.law/codes/ca_sts_and_high_code_section_1460).

*Original Source:* § 1460, [https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=SHC&sectionNum=1460](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=SHC&sectionNum=1460). (last accessed Jun. 6, 2016).

# 10



# RESOLUTION No. 19-070

## OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

### RESOLUTION ADOPTING THE 2019 BOARD OBJECTIVES AND LEGISLATIVE PRIORITIES FOR NEVADA COUNTY

WHEREAS, the Nevada County Board of Supervisors met on January 23 and 24, 2019 and developed the Board's 2019 Objectives and Legislative Priorities for Nevada County; and

WHEREAS, the list of objectives includes generally prioritized items as levels A, B and C, "A" indicating the highest priority and "C" indicating a lower priority.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Nevada County Board of Supervisors adopts the attached 2019 Board Objectives and Legislative Priorities for guidance and use by all County staff and departments; and

BE IT FURTHER RESOLVED the County Executive Officer is directed to use the Board Objectives and Legislative Priorities for the development of the 2019/2020 Fiscal Year Budget and the management of County operations, programs and services.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 12th day of February, 2019, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller,  
Susan K. Hoek and Richard Anderson

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER  
Clerk of the Board of Supervisors

By: 



Richard Anderson, Chair

2/12/19 cc: CEO\*  
COB\*

#11A

## 2019 Board Objectives Summary

### Priority A:

- Maintain the County's financial stability and core services.
- Reduce the risk of local **wildfire** and the effects of wildfire on life, property and the environment by providing leadership and support to community partners, pursuing State and Federal funding, implementing county policies and programs, and assisting the public to be "wildfire ready." Explore other ways to reduce the threat and damage from wildfires.
- In partnership with community providers and other jurisdictions, build an expanded system of coordinated care, outreach, transitional and permanent housing, and supportive services to address the needs of the **homeless** population and to mitigate impacts on the community.
- Coordinate with local jurisdictions, developers and other partners to maximize leveraging opportunities with new state funding for **affordable and workforce housing** development.
- Adopt a County **cannabis** ordinance and implement an effective cannabis compliance and permitting program to promote permitted cannabis activities.

### Priority B:

- Support job-enhancing **economic development** with an emphasis on infrastructure that expands or preserves commerce and provides leadership and coordination opportunities to bring funding sources and community partnerships together including ERC, SBC, RCRC, CSAC and USDA.

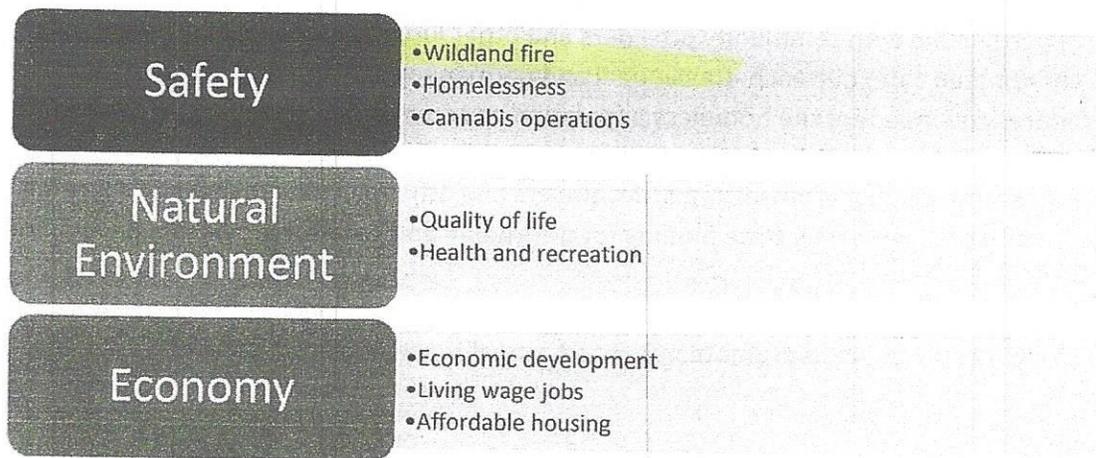
### Priority C:

- Increase public awareness and **civic engagement** by providing easy access to information on County-related services and to encourage citizens to participate in local government. Work with departments to implement new ways to engage with, and provide information to, citizens.
- Complete the feasibility analysis of a potential reorganization of western county **park and recreation districts** for increased collaboration and efficient operation of facilities and administration of services.
- Pursue the best use and maximum value for the **redevelopment of "Lot 6"** which may include a mix of aviation and commercial uses.

## Community Description

Nevada County is a small rural county in Northern California. The County spans 958 square miles from the Sacramento Valley to the Sierra Mountains and borders the state of Nevada, near Reno. Nevada County is home to approximately 100,000 residents with three incorporated cities include Grass Valley, Nevada City and the town of Truckee. Generally, Nevada County residents are older, racially similar yet politically diverse, and well-educated. Nevada County's rich gold rush history, active arts and culture scene, and access to recreational activities attract tourists, retirees, and new residents to the area.

Citizen priorities per the 2017 National Citizen Survey data:



### The Threat of Wildfire:

Nevada County is part of the Wildland Urban Interface, a transition zone between wildland and human development, making uncontrolled wildfire particularly hazardous.

In 2018, Nevada County:

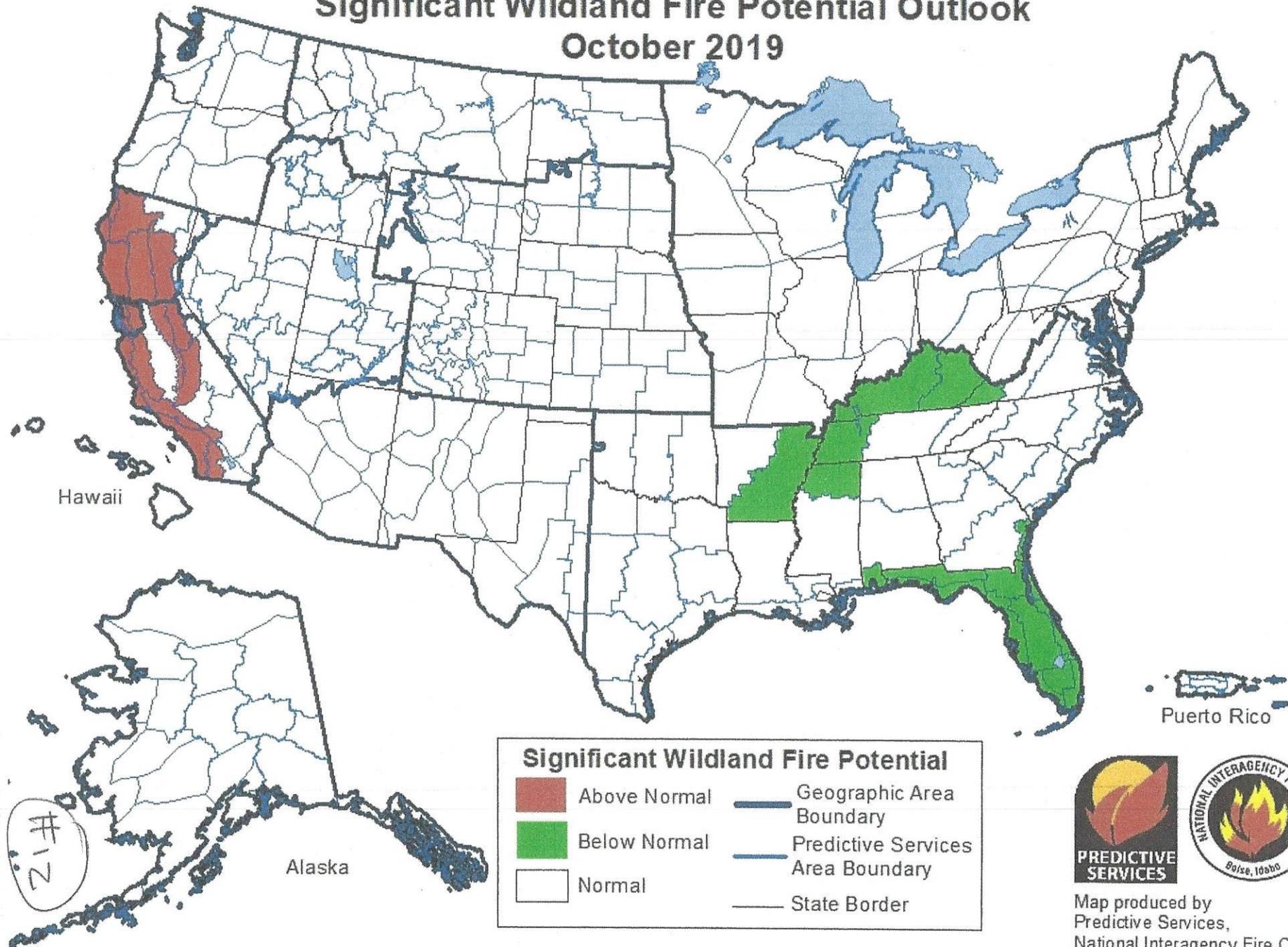
- 115 wildfires in Nevada County
- 62 acres burned
- Applied for over \$16M in wildfire prevention funding

### In 2017, the Lobo and McCourtney (Wind Complex) Fires

Burned **897** acres

Destroyed **60** structures

# Significant Wildland Fire Potential Outlook October 2019



**Significant Wildland Fire Potential**

	Above Normal		Geographic Area Boundary
	Below Normal		Predictive Services Area Boundary
	Normal		State Border



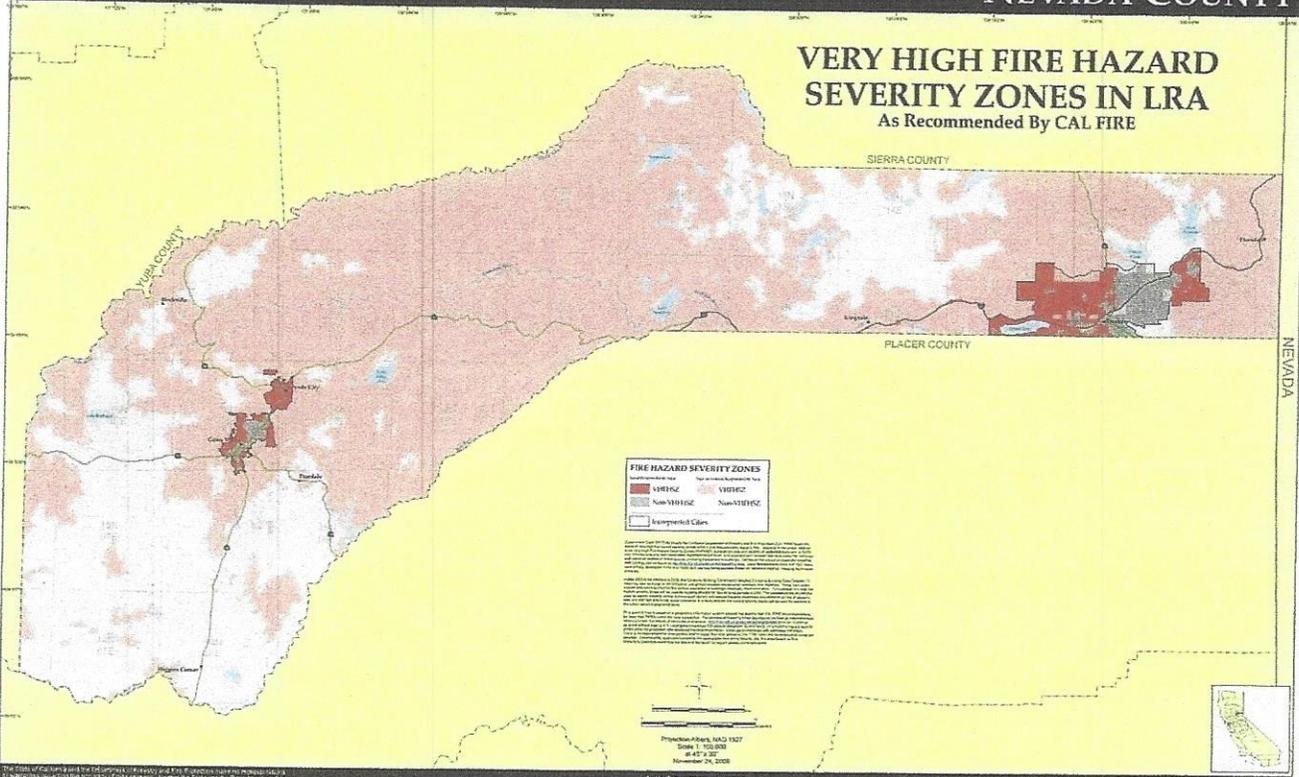
Map produced by  
Predictive Services,  
National Interagency Fire Center  
Boise, Idaho  
Issued September 1, 2019  
Next issuance October 1, 2019

Above normal significant wildland fire potential indicates a greater than usual likelihood that significant wildland fires will occur. Significant wildland fires should be expected at typical times and intervals during normal significant wildland fire potential conditions. Significant wildland fires are still possible but less likely than usual during forecasted below normal periods.



# NEVADA COUNTY

## VERY HIGH FIRE HAZARD SEVERITY ZONES IN LRA As Recommended By CAL FIRE



The State of California and the Department of Forestry and Fire Protection hereby certify that the information contained on this map was prepared by the California Department of Forestry and Fire Protection, and that the information is true and correct to the best of our knowledge and belief. This map is intended for informational purposes only and does not constitute a warranty or guarantee of any kind. The user of this map assumes all liability for any use of the information contained herein.

Approved: [Signature]  
State of California  
Department of Forestry and Fire Protection  
November 04, 2008

#13

**Rhett Vanderploeg**

---

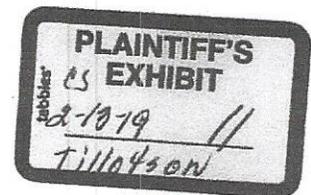
**From:** Rhett Vanderploeg  
**Sent:** Thursday, November 29, 2018 5:59 PM  
**To:** Rhett Vanderploeg  
**Subject:** FW: Floriston Ave Road Improvement Plan

DND  
DP

**From:** Adamson, Troy@CALFIRE <Troy.Adamson@fire.ca.gov>  
**Sent:** Wednesday, June 15, 2016 9:20 AM  
**To:** Matt Furtado <Matt.Furtado@co.nevada.ca.us>  
**Subject:** RE: Floriston Ave Road Improvement Plan

Yes, Ill be on duty next Monday and we can touch base again

**Troy Adamson**  
**Battalion Chief**  
**Law Enforcement**  
**CAL FIRE**  
**Nevada-Yuba-Placer Unit**  
**(530)277-2315**  
**Troy.Adamson@fire.ca.gov**



---

**From:** Matt Furtado [Matt.Furtado@co.nevada.ca.us]  
**Sent:** Wednesday, June 15, 2016 8:45 AM  
**To:** Adamson, Troy@CALFIRE  
**Subject:** RE: Floriston Ave Road Improvement Plan

I agree that we should support this, though there may be room for making some concessions in certain areas that we could meet the intent of the code, not necessarily the exact language of the code. Larry's language for 10949 Floriston Avenue "Removal of multiple encroachments" is a removal of someone's private property regardless of permits and location. The County can certainly direct and should send Code Enforcement to mitigate, but I can't imagine they'd ever allow Larry to be part of that mitigation. The other aspect is that Castleberry is most likely going to dig his heel in and this may go much easier after December.

Are around on Monday morning? I could be there by 9 or 10 and we could talk about our approach to supporting this.

Matt

**From:** Adamson, Troy@CALFIRE [<mailto:Troy.Adamson@fire.ca.gov>]  
**Sent:** Friday, June 10, 2016 7:12 AM  
**To:** Matt Furtado  
**Subject:** Fwd: Floriston Ave Road Improvement Plan

Good morning Matt,  
My perspective is we as fire should support this request.  
Your thoughts?  
Troy

#14 & #15

**Rheta VanderPloeg**

---

**From:** Matt Furtado <Matt.Furtado@co.nevada.ca.us>  
**Sent:** Tuesday, June 21, 2016 3:46 PM  
**To:** Steven Castleberry  
**Subject:** Floriston Avenue  
**Attachments:** Floriston Avenue Letter.pdf

Steve,

After review with Troy Adamson and visiting the site, we have crafted this letter to state our position regarding the Floriston Avenue encroachment permit. We certainly are in support of any improvements that could be made to the road as close to the County standard as possible, but are not advocating removal of any persons property.

If you'd like to discuss it please let me know,

Matt Furtado  
Deputy Fire Marshal  
County of Nevada  
Fire Captain  
CAL FIRE  
530-265-1714 Office  
530-277-2324 Cell

#16

**Attachment for Proposed Floriston Avenue Bush/Planter Roadway Obstruction Removal**

(Nevada County Public Works Most Knowledgeable Staff Employee Testimony February 13, 2019)

Through testimony under oath Public Works Director has stated or agreed:

17 C) Pg.59 Line 11-20 Under county code, it's unlawful for anyone to maintain property in a manner that obstructs view or sight distance which creates an unsafe condition. Goes into to any use of the property in violation constitutes a public nuisance. Goes into no encroachments shall be made where it would cause create an unsafe condition on a county highway.

17 C) Pg. 60 Line 5-6 it's unlawful for somebody to cause a sight distance to be blocked

17 D) Pg.62 Line 10-15 If the Willows were removed line of sight would be improved

17 D) Pg. 62 Line 6-25 & Pg. 63 Line 1, 4 Willows obstructs the line of sight, removing willow would improve line of sight, Improving line of sight would improve safety of a roadway

17 D) Pg. 63 Line 5-15 Removing willow would generally improve safety by allowing you to see traffic to the south of the willow

17 E) Pg. 72 Line 2-5 A road with minimum fire access standards would serve the convenience of the public

17 E) Pg. 72 Line 11-13 A road that meets minimum fire access standards improves public safety over one that does not

17 E) Pg. 72 Line 14-22 A road that meeting minimum safety standards would be in the best interest of the county

17 F) Pg. 92 Line 3-6 A two-lane road on Floriston Avenue would provide for better public safety than a one lane road

17 G) Pg. 110 Line 10-17 Issues regarding safety could be line of sight, vegetation management, fire safety

17 H) Pg.156 Line 15-16 Widening a roadway can improve safety

17 I) Pg. 159 Line 9-10 Widening a road could make it safer

17 J) Pg. 176 Line 14-27 Would be increased public safety for access purposes if there was a two-lane road at that location of Floriston Avenue

17A

1 SUPERIOR COURT OF CALIFORNIA

2 COUNTY OF NEVADA - NEVADA CITY BRANCH

3 --oOo--

4 LARRY ANDRESEN; and CHERYL )  
ANDRESEN, )

5 Plaintiff, )

No. TCU17-6612

6 vs )

7 JOHN MINNIS; MIRIAM MINNIS; )  
PETER H. RIVARA, individually )  
8 and as Trustee of the PETER AND )  
JAMIE RIVARA LIVING TRUST DATED )  
9 DECEMBER 7, 2012; JAMIE T. )  
COLE, individually and as )  
10 Trustee of the PETER AND JAMIE )  
RIVARA LIVING TRUST DATED )  
11 DECEMBER 7, 2012; All persons )  
unknown claiming any legal or )  
12 equitable right, title, estate, )  
lien, or interest in the )  
13 property described in the )  
complaint adverse to )  
14 Plaintiffs' title, or any cloud )  
on Plaintiffs' title thereto; )  
15 and DOES 1-10, inclusive, )

16 Defendants. )

17 )  
18 AND RELATED CROSS-ACTIONS. )

19 DEPOSITION OF  
20 TRISHA MARIE TILLOTSON, PMK OF COUNTY OF DEPARTMENT OF  
PUBLIC WORKS FOR COUNTY OF NEVADA  
21 GRASS VALLEY, CALIFORNIA  
FEBRUARY 13, 2019

22 ATKINSON-BAKER  
(800) 288-3376  
23 www.depo.com

24 REPORTED BY: CATHLEEN SLOCUM, CSR NO. 2822

25 FILE NO.: AC09D0E

1 Floriston Avenue?  
2 MS. VANDER PLOEG: Objection. Speculative too.  
3 **Q. BY MR. BROWN: Based on your experience?**  
4 MR. CARLTON: Join.  
5 THE WITNESS: No.  
6 **Q. BY MR. BROWN: Are there minimum line of sight**  
7 **regulations for roadways?**  
8 A. Yes.  
9 **Q. Can you describe generally the purpose of those**  
10 **regulations based on your experience?**  
11 MR. CARLTON: Object. It's overly broad.  
12 Calls for speculation.  
13 THE WITNESS: Main purpose is to allow a  
14 motorist enough time to see oncoming vehicles and stop  
15 in an acceptable amount of time and distance.  
16 **Q. BY MR. BROWN: That relates to safety issues?**  
17 A. Yes.  
18 **Q. So improved line of sight improves driver**  
19 **safety?**  
20 A. Yes, it can.  
21 MR. BROWN: Number 23.  
22 (Plaintiffs/Cross-Defendants' Exhibit 23 was  
23 marked for identification.)  
24 **Q. BY MR. BROWN: I've provided you with a code**  
25 **section under the Article 4A Regulating Roadway**

1 itself.  
2 MS. VANDER PLOEG: Join.  
3 MR. CARLTON: She's going to read it. Why  
4 don't you read it, Mike, read it into the record.  
5 THE WITNESS: It's saying that it's unlawful  
6 for somebody to cause a sight distance to be blocked.  
7 **Q. BY MR. BROWN: So purpose of this is also to**  
8 **improve public safety on public roads, true?**  
9 MR. CARLTON: Objection. Calls for  
10 speculation.  
11 MS. VANDER PLOEG: Join.  
12 **Q. BY MR. BROWN: Based on your experience?**  
13 A. Improve and/or maintain, yes.  
14 MR. BROWN: Twenty-nine.  
15 (Plaintiffs/Cross-Defendants' Exhibit 29 was  
16 marked for identification.)  
17 MR. BROWN: This is the third page.  
18 THE WITNESS: There's already three. Is that  
19 the fourth page?  
20 MR. BROWN: The third page, tuck it in after  
21 number two.  
22 MS. VANDER PLOEG: So Exhibit 29 is a total of  
23 four photographs?  
24 MR. BROWN: Yes.  
25 **Q. So looking at the first page this again is a**

1 **Encroachments, and this particular code relates to sight**  
2 **distance required. Are you familiar with this code**  
3 **provision?**  
4 A. Yes.  
5 **Q. Can you describe what it is?**  
6 MR. CARLTON: Objection. The document speaks  
7 for itself.  
8 MS. VANDER PLOEG: Join.  
9 THE WITNESS: Yes, I can.  
10 **Q. BY MR. BROWN: Can you do so?**  
11 A. Yes. So it's basically part A is saying it's  
12 unlawful for anyone to maintain the property in a manner  
13 that obstructs view or sight distance which creates an  
14 unsafe condition. Goes into any use of the property in  
15 violation constitutes a public nuisance. Goes into no  
16 encroachments shall be made where it would create an  
17 unsafe condition on a county highway. Talks about new  
18 development and importance of providing sight distance.  
19 And then goes into there's a right to appeal a decision  
20 made by the county.  
21 **Q. So essentially this regulation pertains to a**  
22 **number of things but includes there shall be no**  
23 **encroachments that create unsafe conditions relating to**  
24 **sight distance, line of sight; is that a fair statement?**  
25 MR. CARLTON: Objection. Document speaks for

1 **photograph of the willows in the dedicated right of way?**  
2 MS. VANDER PLOEG: Just to clarify, Mike, this  
3 is dated 6/12/16 with a mailbox 930, this first photo?  
4 MR. BROWN: Yes, and the mailbox has Rivara on  
5 it. Okay.  
6 **Q. BY MR. BROWN: Now this is looking south, this**  
7 **photo is looking south along Floriston Avenue just north**  
8 **of the willow, correct?**  
9 A. Yes.  
10 **Q. Now, this would you agree that the, this photo**  
11 **shows that the willow obstructs the line of sight down**  
12 **the dedicated portion of Floriston Avenue to the south?**  
13 MS. VANDER PLOEG: Objection. Speculative.  
14 MR. CARLTON: Objection. Document speaks for  
15 itself.  
16 **Q. BY MR. BROWN: Can you see any portion of the**  
17 **dedicated roadway past the willow in front of the**  
18 **Minnises' property?**  
19 A. I cannot see --  
20 MR. CARLTON: It's not to scale. There's no  
21 overlay on this map.  
22 THE WITNESS: From the point of view of this  
23 photo I cannot see the existing path of travel.  
24 **Q. BY MR. BROWN: You cannot see the dedicated**  
25 **portion of Floriston Avenue either, correct?**

16 (Pages 58 to 61)

17c

1 A. Well, the willow is in the dedicated portion of  
2 Floriston Avenue.

3 **Q. And you cannot see the dedicated portion of the**  
4 **roadway to the south of the willow, true?**

5 A. Correct.

6 **Q. So you would agree that this willow obstructs**  
7 **the line of sight of the dedicated portion of roadway to**  
8 **the south, true?**

9 A. From this point of view of this photo, yes.

10 **Q. Would you agree that the removal of the willow**  
11 **would improve the line of sight of the dedicated portion**  
12 **of the roadway to the south?**

13 A. In this photo the existing path of travel if  
14 you were to remove the willows it would improve the  
15 sight distance, yes.

16 **Q. And that would improve the safety of the**  
17 **roadway, true?**

18 MS. VANDER PLOEG: Objection. That's  
19 speculative.

20 **Q. BY MR. BROWN: Based on your experience?**

21 A. That is speculation.

22 MR. CARLTON: Calls for speculation. Assumes  
23 facts.

24 **Q. BY MR. BROWN: Based on your experience would**  
25 **improving the line of sight improve the safety of a**

Page 62

1 **county regarding the Fehrts?**

2 A. I do not recall that, no.

3 MS. VANDER PLOEG: Just to clarify, is it the  
4 Fehrts? I don't know.

5 MR. BROWN: I've probably been --

6 MS. VANDER PLOEG: I haven't spoken to them  
7 either.

8 MR. BROWN: I don't know if I've been  
9 mispronouncing their name in calling them that.

10 MS. VANDER PLOEG: F-e-h-r-t.

11 MR. BROWN: Yeah. Fehrt maybe. I don't know.  
12 Sorry. That should have been off the record.

13 **Q. Have you had any conversations with anyone**  
14 **about a septic system that's been installed in the**  
15 **Floriston Avenue right of way?**

16 A. Yes.

17 **Q. And what conversations have you had about that**  
18 **issue?**

19 MS. VANDER PLOEG: Objection if it at all goes  
20 to the deliberative process. Can you narrow that?

21 MR. BROWN: What's the deliberative process?  
22 There's been no pending decision. We're not challenging  
23 any decision.

24 MS. VANDER PLOEG: Just when all conversations  
25 regarding any septic could possibly fall, but if you

Page 64

1 **roadway?**

2 MS. VANDER PLOEG: Objection. That's  
3 overbroad. It would be fact specific to the road.

4 THE WITNESS: In general, yes.

5 **Q. BY MR. BROWN: And do you believe it would do**  
6 **so here if the willow was removed would it generally**  
7 **improve safety by allowing you to see traffic to the**  
8 **south of the willow if you are at this vantage point in**  
9 **the first photograph?**

10 MS. VANDER PLOEG: I'm going to object because  
11 you're assuming facts to one specific of public safety  
12 that's to ignore all other areas of public safety,  
13 speed.

14 MR. CARLTON: Join.

15 THE WITNESS: It could help improve safety.

16 **Q. BY MR. BROWN: And do you believe it would do**  
17 **so based on your experience?**

18 MR. CARLTON: Objection to the form of the  
19 question.

20 THE WITNESS: There's a lot of factors to  
21 consider. So it very well could, yes.

22 **Q. BY MR. BROWN: Have you ever spoken to the**  
23 **Fehrts?**

24 A. I don't recall that, no.

25 **Q. Have you ever had a discussion with anyone at**

Page 63

1 could narrow your question.

2 **Q. BY MR. BROWN: Sure. Referring to the Fehrt**  
3 **property, do you have any understanding that there is a**  
4 **septic system installed within the county right of way?**

5 A. That's my understanding.

6 **Q. And who has told you that?**

7 A. It's been discussed among staff.

8 **Q. And have you seen any documentation to confirm**  
9 **that that's actually the case?**

10 A. I have not confirmed that, no.

11 **Q. Have you requested that the property owner**  
12 **confirm that?**

13 A. No.

14 MR. BROWN: Exhibit 30.

15 (Plaintiffs/Cross-Defendants' Exhibit 30 was  
16 marked for identification.)

17 **Q. BY MR. BROWN: I'll show you what's been marked**  
18 **as Exhibit 30 which is a permit for the Fehrts' property**  
19 **from the files of Nevada County for construction of a**  
20 **septic system to the rear of the Fehrts' property. Do**  
21 **you see this?**

22 A. Yes.

23 **Q. Have you reviewed this permit before?**

24 A. No.

25 **Q. And in this permit it says, "Stay 100 feet from**

Page 65

17 (Pages 62 to 65)

1 **Q. And then also shows some of the Minnises'**  
2 **encroachments being removed so that the right of way can**  
3 **be restored to a roadway within the dedicated right of**  
4 **way, true?**

5 MS. VANDER PLOEG: Objection. That's  
6 conclusionary to the proposed proposals by this, by  
7 these plans but it's not a fact.

8 MR. BROWN: That's what the improvement plan  
9 shows that it's a request to improve it, these  
10 parameters.

11 MR. CARLTON: I'm going to join.

12 MS. VANDER PLOEG: Could you repeat the  
13 question.

14 **Q. BY MR. BROWN: Now, I'll represent to you that**  
15 **these improvement plans proposed to improve the roadway**  
16 **within the dedicated roadway so that it would meet**  
17 **minimum county standards. Is that a fair statement?**

18 MR. CARLTON: I'm going to object. Assumes  
19 facts not in evidence.

20 **Q. BY MR. BROWN: Review the improvement plans.**

21 A. I don't know the exact goal of the submittal  
22 from the encroachment permit, but they are showing the  
23 fire standard access road on page C3.

24 **Q. And so that, so according to C3 these**  
25 **improvement plans would meet the minimum county road**

Page 70

1 **requirements, true?**

2 A. I do not know that. I would have to review  
3 this in detail and determine first of all if the fire  
4 standard access road is the correct standard to even be  
5 using. There's a couple of different standards.

6 **Q. Do you know what the minimum county road**  
7 **standards are? I think we described for Floriston**  
8 **Avenue approximately 20 feet, true, previously?**

9 MR. CARLTON: Objection. It's been asked and  
10 answered.

11 MS. VANDER PLOEG: Join.

12 THE WITNESS: Yes.

13 **Q. BY MR. BROWN: And so the minimum county road**  
14 **fire standards for this road also as shown on C3 are 20**  
15 **feet, correct?**

16 A. Yes.

17 **Q. And that's the minimum, that's the minimum**  
18 **county fire standards that are applicable for Floriston**  
19 **Avenue?**

20 A. I do not know that. I would have to verify.

21 **Q. What fire standards do you believe are, minimum**  
22 **fire standards are applicable to Floriston Avenue, do**  
23 **you know?**

24 MS. VANDER PLOEG: Objection. Speculative.  
25 She just answered she doesn't know.

Page 71

1 THE WITNESS: I don't know.

2 **Q. BY MR. BROWN: You'd agree that a road with**  
3 **minimum fire access standards would serve the**  
4 **convenience of the public, true?**

5 A. Yes.

6 MR. CARLTON: Objection. Asked and answered.  
7 Calls for speculation.

8 **Q. BY MR. BROWN: You also agree that it would**  
9 **improve public safety, true?**

10 MR. CARLTON: Same objections.

11 **Q. BY MR. BROWN: A road that meets minimum fire**  
12 **standards improves public safety over one that does not?**

13 A. Yes.

14 **Q. Would you agree that a road meeting minimum**  
15 **fire safety standards would be in the best interests of**  
16 **the county, true?**

17 MS. VANDER PLOEG: Objection. It's overbroad.  
18 That would --

19 MR. CARLTON: Join.

20 MS. VANDER PLOEG: That would be fact specific  
21 to each road.

22 THE WITNESS: In general, yes, I would say.

23 **Q. BY MR. BROWN: And would you agree that an**  
24 **improvement plan that brought Floriston Avenue, the**  
25 **roadway to meet minimum applicable fire standards would**

Page 72

1 **be in the interest of the county, true?**

2 MS. VANDER PLOEG: Objection. It's overbroad  
3 and it doesn't bring in other facts. You're painting it  
4 as road improvement in a general sense for all and it  
5 would be specific to this road and everyone else.

6 MR. BROWN: Yeah, that's what I said, Floriston  
7 Avenue.

8 MR. CARLTON: I'm going to join.

9 **Q. BY MR. BROWN: You would agree that bringing**  
10 **Floriston Avenue to improve it to meet minimum fire**  
11 **standards would be in the interests of the county, true?**

12 A. Yes, in general.

13 **Q. It would also improve public safety, true?**

14 A. Yes, in general.

15 **Q. You also -- do you, do you know that**  
16 **Mr. Andresen proposed to make the Floriston Avenue**  
17 **roadway improvements contemplated by these plans at his**  
18 **own expense?**

19 A. I do not know that.

20 **Q. The county was not required to spend any**  
21 **financial resources for this proposed improvement**  
22 **project. Did you know that?**

23 A. No.

24 MR. CARLTON: Objection. Asked and answered.

25 **Q. BY MR. BROWN: Now, I'll represent to you that**

Page 73

19 (Pages 70 to 73)

ITE

1 since the fence is there now?  
2 A. Correct.  
3 **Q. Do you know who directed the surveyor to**  
4 **prepare what's referred to as the existing traveled way**  
5 **on Exhibit 5?**  
6 A. No.  
7 **Q. Who's the county fire marshal presently?**  
8 A. Matt Furtado.  
9 **Q. And is Matt Furtado, actually he's employed by**  
10 **Cal Fire; is that true?**  
11 A. Actually I don't know exactly his employment  
12 status.  
13 **Q. Have you ever had any communications with Matt**  
14 **Furtado about Floriston Avenue issues?**  
15 A. I don't believe so.  
16 **Q. The last page of Exhibit 10, it says,**  
17 **Mr. Castleberry says, "I have been contacted by the**  
18 **County Fire Marshal and he has indicated that the**  
19 **roadway needs to be restored to the width prior to**  
20 **construction of your fence." Do you see that --**  
21 A. Yes.  
22 **Q. -- statement?**  
23 A. Uh-huh.  
24 **Q. Do you know whether Mr. Furtado ever made that**  
25 **statement to Mr. Castleberry?**

Page 90

1 A. I do not.  
2 **Q. And Mr. Castleberry refers to 4290 of the**  
3 **Public Resources Code. Do you see that?**  
4 A. Yes.  
5 **Q. Do you have an understanding of what that code**  
6 **section requires?**  
7 A. Yes.  
8 **Q. What is that?**  
9 A. You have it attached to the back of Exhibit 10,  
10 but the board should have regulations requiring minimum  
11 fire safety standards related to the defensible space.  
12 That's pretty much it. It relates to roads and making  
13 sure that they're fire safe.  
14 **Q. Fire safe roads within Nevada County require a**  
15 **two-lane road, true, minimum fire standards?**  
16 MR. CARLTON: Asked and answered.  
17 THE WITNESS: Not necessarily. You would need  
18 to look at our improvement standards, but there's also  
19 one-way options.  
20 **Q. BY MR. BROWN: But the minimum standards for**  
21 **Floriston Avenue as we've discussed is a two-lane**  
22 **option, true?**  
23 A. Yes.  
24 **Q. And so the applicable fire standard would be a**  
25 **two-lane minimum requirement for Floriston Avenue also,**

Page 91

1 true?  
2 A. Yes, if you were constructing a new road.  
3 **Q. You would agree that a two-lane road on**  
4 **Floriston Avenue would provide for better public safety**  
5 **than a one-lane road, true?**  
6 A. Yes.  
7 MR. CARLTON: Objection. Asked and answered.  
8 **Q. BY MR. BROWN: Including fire safety, true?**  
9 A. Yes.  
10 **Q. Based on your experience as director of public**  
11 **works when you're considering requests to improve county**  
12 **roads, are comments from the fire agencies important?**  
13 A. Yes. Uh-huh.  
14 **Q. Would you generally defer to the fire agencies**  
15 **including your own fire marshal on recommendations they**  
16 **have with respect to fire safety issues?**  
17 MS. VANDER PLOEG: Objection. That's  
18 speculative to the facts and the time presented.  
19 MR. CARLTON: Join.  
20 **Q. BY MR. BROWN: As a general practice.**  
21 A. I would consider their recommendation.  
22 MR. BROWN: Eleven.  
23 (Plaintiffs/Cross-Defendants' Exhibit 11 was  
24 marked for identification.)  
25 **Q. BY MR. BROWN: Exhibit 11 at the bottom**

Page 92

1 includes an e-mail from Larry Andresen to Troy Adamson,  
2 A-d-a-m-s-o-n, with an attached letter regarding the  
3 Floriston Avenue Improvement Plan that we've been  
4 discussing. Do you see that?  
5 A. Yes.  
6 **Q. Have you seen this series of e-mails before?**  
7 A. I don't recall seeing them.  
8 **Q. Who is, do you know who Troy Adamson is?**  
9 A. I do not, no.  
10 **Q. Shows Truckee-North Lake Tahoe Cal Fire**  
11 **Division, the top of page 2. Do you see that?**  
12 A. Yes.  
13 **Q. And Mr. Adamson in his e-mail to Matt Furtado**  
14 **says, "My perspective is we as fire should support this**  
15 **request." And that's request for support for the**  
16 **improvements to Floriston Avenue proposed by**  
17 **Mr. Andresen, true?**  
18 MS. VANDER PLOEG: The document speaks for  
19 itself. Objection.  
20 MR. CARLTON: Join.  
21 MS. VANDER PLOEG: This is not Ms. Tillotson's  
22 writing.  
23 THE WITNESS: I'm trying to find where you're  
24 reading that. Page 1.  
25 MR. BROWN: At the bottom of page 1.

Page 93

17F

1 the Hirschdale community would be, true?  
2 A. Correct.  
3 **Q. And the third bullet point, "The project is not**  
4 **an improvement in roadway safety over the existing**  
5 **improvements as there is no crash history at this**  
6 **location." Now, is that the only factor that's looked**  
7 **at when reviewing the approval or denial of a**  
8 **encroachment permit?**  
9 A. No.  
10 **Q. And other issues with regard to roadway safety**  
11 **as we discussed could be line of sight improvements,**  
12 **true?**  
13 A. Yes.  
14 **Q. Fire safety improvements?**  
15 A. Yes.  
16 **Q. Vegetation management improvements?**  
17 A. Yes.  
18 **Q. The fourth bullet point says, "The proposed**  
19 **improvements require financial investment by and**  
20 **liability to the County." Do you see that?**  
21 A. Yes.  
22 **Q. Do you have any understanding of how the**  
23 **proposed improvements could require any financial**  
24 **investment by the county?**  
25 A. No.

Page 110

1 **Q. And you're aware from our review of the**  
2 **correspondence and the submittals here today that**  
3 **Mr. Andresen was proposing to do the improvements at his**  
4 **own cost, true?**  
5 A. From what you told me today, yes.  
6 **Q. Did you have any independent understanding of**  
7 **that before sitting here today?**  
8 A. No.  
9 **Q. And would that be a consideration in approving**  
10 **an encroachment permit who was bearing the cost whether**  
11 **it be the county or a private individual?**  
12 A. The county would not apply for an encroachment  
13 permit for ourselves to do work.  
14 **Q. Right. But --**  
15 A. But no, I wouldn't -- if somebody submits an  
16 encroachment permit generally it's not a concern of  
17 who's paying for it.  
18 **Q. And then the proposed improvements it says**  
19 **"liability to the County." Do you have any**  
20 **understanding of what liability the county could face**  
21 **with respect to the approval of the proposed improvement**  
22 **plans?**  
23 A. Yes.  
24 **Q. And what would that be?**  
25 A. My understanding is the county could have

Page 111

1 liability potentially in any improvement that we approve  
2 in our right of way.  
3 **Q. Liability to whom? I don't understand.**  
4 A. If a member of the public injures himself or  
5 something on a public right of way I believe there's  
6 always a potential for the county to have some kind of  
7 liability in that.  
8 **Q. Potential. The county could also have**  
9 **liability for a public road that falls far below minimum**  
10 **road requirements, true?**  
11 MS. VANDER PLOEG: Objection. That's a legal  
12 conclusion.  
13 MR. CARLTON: Join.  
14 THE WITNESS: I wouldn't know for sure, but I  
15 would think so.  
16 **Q. BY MR. BROWN: And would you, based on your**  
17 **experience and understanding of the county road**  
18 **requirements, would you generally agree that there would**  
19 **be less liability concerns for a road that met minimum**  
20 **county road requirements from one that did not?**  
21 MR. CARLTON: Objection. It's overly broad.  
22 Calls for speculation. Assumes facts.  
23 MS. VANDER PLOEG: Join.  
24 THE WITNESS: Not necessarily.  
25 **Q. BY MR. BROWN: I'm asking for a general**

Page 112

1 **statement, yes or no.**  
2 MR. CARLTON: Same objections.  
3 THE WITNESS: I guess could you repeat the  
4 question.  
5 MR. BROWN: Read it back, please.  
6 (Record read.)  
7 THE WITNESS: Yes.  
8 MR. CARLTON: Same objection.  
9 **Q. BY MR. BROWN: Turning to the page with the**  
10 **photographs, second to last page, do you have any**  
11 **understanding of what this -- I'm looking at the bottom**  
12 **photograph -- depicts? Do you know one way or the**  
13 **other? Do the dotted liens represent where the proposed**  
14 **road, the proposed road per the improvement plans would**  
15 **go?**  
16 A. I do not know if those represent the proposed  
17 road or the right of way.  
18 **Q. There's X's through certain, the willow we've**  
19 **been talking about, the unpermitted sheds on the Minnis**  
20 **property. Do you see that?**  
21 A. Yes.  
22 **Q. And those are the unpermitted encroachments**  
23 **that would be required to be removed per the improvement**  
24 **plans. Do you have that understanding?**  
25 A. Generally, yes. You'd have to compare where

Page 113

29 (Pages 110 to 113)

1 proposed improvements are proposing to relocate the road  
2 from where the fence is. So I'm not saying I disagree  
3 with the intent of the sentence, but written word for  
4 world there, yeah, I mean, the proposed improvements  
5 were not exactly where the fence was constructed.

6 **Q. BY MR. CARLTON: But the proposed improvement  
7 for Mr. Andresen, they stretch like 450 feet, something  
8 like that, don't they?**

9 MR. BROWN: Lacks foundation.

10 THE WITNESS: I'd have to look at the plans to  
11 give you the length.

12 **Q. BY MR. CARLTON: Okay. Well, let's look at the  
13 plans and then we'll come back to 15.**

14 MS. VANDER PLOEG: Twenty-four I believe.

15 THE WITNESS: Looking for an overall plan view.  
16 Maybe we don't have that. I'm looking for station.  
17 Sorry.

18 **Q. BY MR. CARLTON: That's okay. I'm looking at  
19 the second page of Exhibit 24. Is that what you're  
20 looking at?**

21 A. Yes. Based on this it goes from station zero  
22 to four plus 39. So that's about 439 feet.

23 **Q. Okay. And you see that, so within that stretch  
24 of proposed improvements is in fact the area in front of  
25 the Minnises' property and in front of his property,**

1 A. Yes.

2 **Q. And you see that he says, "By establishing a  
3 new alignment, your plan does not serve the convenience  
4 of your neighbors in the Hirschdale community, nor is it  
5 a significant safety improvement over the old  
6 alignment ..." Do you see that?**

7 A. Yes.

8 **Q. Do you disagree with that?**

9 MR. BROWN: Lacks foundation. Speculation.

10 MS. VANDER PLOEG: Document speaks itself.

11 THE WITNESS: I'm reading it. Sorry.

12 **Q. BY MR. CARLTON: That's okay.**

13 A. I'm not sure of the basis of that statement  
14 from Mr. Castleberry. I mean, again, safety is a pretty  
15 broad term. I think in general widening a roadway can  
16 improve safety.

17 **Q. I hear you. But do you disagree with his  
18 conclusion that the establishment of a new alignment  
19 does not serve the convenience of the Hirschdale  
20 community, do you disagree with that statement?**

21 MR. BROWN: Asked and answered. Lacks  
22 foundation. Speculation.

23 THE WITNESS: I don't even know -- actually I'm  
24 not sure what he means by "convenience." I don't want  
25 to speculate on that term "convenience" because I don't

1 correct?

2 A. Correct.

3 **Q. Okay. So then it is -- so when Mr. Castleberry  
4 says, "Your proposed improvements mitigate a risk you  
5 created by construction of your fence," you'd concur  
6 with that, correct?**

7 MR. BROWN: Same objections.

8 THE WITNESS: Yeah, in general I would concur  
9 with that.

10 **Q. BY MR. CARLTON: Have you had discussions with  
11 Mr. Castleberry about this issue?**

12 A. I met with him in December 2016 and he briefly  
13 showed me around the county. It was a whirlwind day,  
14 eight hours, and he did mention this as a concern and  
15 that I would be involved with it.

16 **Q. Did he say good luck?**

17 A. Pretty much, yeah. I didn't get details or  
18 anything at that time.

19 **Q. All right. In the last -- I'm looking at  
20 Exhibit 15 again, the letter from Mr. Castleberry, the  
21 last paragraph on page 1, and that issue runs over to  
22 page 2. Basically he cites a section of the code and he  
23 says that encroachment permits may be denied if they  
24 adversely affect the convenience or safety of the  
25 public. Do you see that?**

1 know what he means by that.

2 **Q. BY MR. CARLTON: Well, I mean -- well,  
3 obviously if they were going to do a new alignment plan  
4 they would, they would be tearing out, you know, the  
5 willows, moving power poles. He wants to move certain  
6 fire hydrants. You understand that the encroachment  
7 plan that he submitted has a significant amount of  
8 construction, do you understand that?**

9 MR. BROWN: Misstates testimony. Lacks  
10 foundation. Assumes facts.

11 THE WITNESS: Yes, I understand it includes a  
12 lot of construction on the roadway.

13 **Q. BY MR. CARLTON: Okay. And have you ever been  
14 through a construction project at your house?**

15 A. A few times, yes.

16 **Q. So we can agree that it's very inconvenient,  
17 correct?**

18 MR. BROWN: Lacks foundation. Speculation.

19 THE WITNESS: Construction can provide some  
20 inconveniences, yes.

21 **Q. BY MR. CARLTON: Right. I think it might be  
22 the number two reason people get divorced. But setting  
23 that aside and in light of the inconvenience that  
24 potentially occurs, you know, with construction, looking  
25 at Mr. Castleberry's statement, by establishing a new**

1 alignment, your plan does not serve the convenience of  
2 the neighbors in your Hirschdale community, in light of  
3 that would you concur that convenience might have to do  
4 with the difficulties of suffering through the  
5 construction proposed by Mr. Andresen's encroachment  
6 plans?

7 MR. BROWN: Speculation.

8 MS. VANDER PLOEG: Join.

9 THE WITNESS: I suppose so.

10 MR. CARLTON: Okay.

11 THE WITNESS: He could have had that in mind.

12 **Q. BY MR. CARLTON: All right. Do you disagree**  
13 **with his statement that the encroachment plan is not a**  
14 **significant safety improvement over the old alignment?**

15 MR. BROWN: That's asked and answered. She  
16 said widening the road can improve safety. Lacks  
17 foundation.

18 MR. CARLTON: What did you tell me about  
19 talking objections. I asked the question. Let her  
20 answer it, please.

21 THE WITNESS: So, again, safety is pretty  
22 general. I mean, what Castleberry may have meant here  
23 was that the road is still going to be narrow on both  
24 ends. Perhaps that's what he meant, but that's  
25 speculation.

Page 158

1 evidence.

2 So if that's the definition of significant,  
3 then probably not. But if your definition of  
4 significant is now you have more access to get in and  
5 out of your driveway, then yes.

6 **Q. BY MR. CARLTON: Well, the former is my**  
7 **definition of it. So are you aware of any significant**  
8 **traffic safety issues on Floriston Avenue at that**  
9 **location?**

10 MR. BROWN: Same objections.

11 THE WITNESS: Nothing on record, no.

12 **Q. BY MR. CARLTON: Are you aware of any**  
13 **significant bottleneck issues with safety with the fire**  
14 **personnel and trucks at that location?**

15 A. No.

16 **Q. Okay. So as far as you know as you sit here**  
17 **today testifying that there's, there's been no**  
18 **significant safety concerns with the road as it was for,**  
19 **as the historical path was for many years, correct?**

20 MR. BROWN: Lacks foundation. Speculation.

21 MR. ROBYN: Ambiguous as to "significant."

22 THE WITNESS: Yes, I would agree.

23 **Q. BY MR. CARLTON: If you can take a look at**  
24 **Exhibit 17 for me, please.**

25 A. Okay.

Page 160

1 **Q. BY MR. CARLTON: I understand. But I guess I'm**  
2 **not asking you what he thought. I'm asking your**  
3 **opinion. Do you agree with the notion that there's no**  
4 **significant safety improvement with the plan submitted**  
5 **by Mr. Andresen?**

6 MR. ROBYN: Objection. Calls for expert  
7 opinion.

8 MR. BROWN: Same objections. Lacks foundation.

9 THE WITNESS: I think widening of the roadway  
10 could make it safer, yes.

11 **Q. BY MR. CARLTON: I understand that. I**  
12 **understand you testified to that. But the key word here**  
13 **is "significant" safety improvement. Do you see a**  
14 **significant safety improvement between the old alignment**  
15 **as Mr. Castleberry refers to it versus the proposed**  
16 **plan?**

17 MR. BROWN: That's asked and answered. Vague  
18 and ambiguous as to "significant."

19 THE WITNESS: I think it would depend on how  
20 you define significant. I mean, I'm not trying to be  
21 difficult here. I'm really not. It's just significant,  
22 what do you mean by that? There's no accident data from  
23 this section of roadway, so you're not going to be  
24 eliminating that. Is there evidence that there's been  
25 issues during wildfires? I can't say that I have that

Page 159

1 **Q. It's a transmittal from Mr. Castleberry. Do**  
2 **you see that?**

3 A. Yes.

4 **Q. Do you see where he says in the second bullet**  
5 **point, "The road is constrained in width on each end of**  
6 **the project and the improvements therefore don't provide**  
7 **significant benefit"? Do you see that?**

8 A. Yes.

9 **Q. Did you agree that the road is constrained in**  
10 **width on each end of the project?**

11 A. Yes.

12 **Q. And you agree that he says it is constrained on**  
13 **each end of the project and the improvements don't**  
14 **provide significant benefit?**

15 MR. BROWN: Lacks foundation. Assumes facts.

16 MR. ROBYN: Calls for expert opinion.

17 MR. BROWN: Vague and ambiguous.

18 THE WITNESS: Yes, I would agree.

19 **Q. BY MR. CARLTON: And the third bullet point**  
20 **where he says, "... there is no crash history at this**  
21 **location," is that your understanding?**

22 A. That is my understanding, yes.

23 **Q. Looking at Exhibit 19, the letter from the**  
24 **County of Nevada Fire from George Morris, III.**

25 A. Yes, I have that.

Page 161

41 (Pages 158 to 161)

PMK: Trisha Marie Tillotson  
February 13, 2019

17I

1 **Q. The county doesn't normally take action until**  
2 **there's been a complaint, correct?**

3 A. Correct.

4 **Q. And in this case there has been a complaint,**  
5 **true?**

6 A. Yes.

7 **Q. About the specific encroachments providing**  
8 **safety issues with respect to the right of way along**  
9 **Floriston Avenue, true?**

10 A. That's my understanding, yes.

11 **Q. And the county has taken no action to require**  
12 **the abatement of these unpermitted encroachments within**  
13 **the public right of way, true?**

14 A. The way you worded that I'm not sure because  
15 there has been some action taken by the county in the  
16 past by code compliance.

17 **Q. Not with respect to the Minnis encroachments?**  
18 **Well, let me back up.**

19 A. Sure.

20 **Q. We've discussed certain exhibits where county**  
21 **counsel has put a hold on any compliance actions against**  
22 **the Minnis encroachments, true?**

23 A. Yes, from what I've seen.

24 **Q. And there has not been any enforcement action**  
25 **or compliance action with respect to the willow block**

Page 174

1 correct?

2 A. I would assume so, yes.

3 **Q. And that would improve -- that would be**  
4 **convenient for the public, true?**

5 A. Yes.

6 **Q. That would improve public safety for roadway**  
7 **use, true, have access?**

8 A. I'm not quite sure about the safety because  
9 it's not exactly legal for cars to park on the road to  
10 deliver propane to begin with.

11 **Q. But that's what's happening, right?**

12 A. Right. But that happens all over in rural  
13 counties throughout California.

14 **Q. But you would agree that there would be**  
15 **increased public safety for access purposes if there was**  
16 **a two-lane road in that location?**

17 A. Yes.

18 **Q. Now, Floriston Avenue is not a**  
19 **county-maintained road and we discussed how the private**  
20 **property owners are responsible essentially for**  
21 **maintaining the road and snow removal activities,**  
22 **correct?**

23 A. Correct.

24 **Q. And you don't have to have, get an encroachment**  
25 **permit to move snow?**

Page 176

1 area encroachments, correct, to your knowledge?

2 A. Not that I'm aware of.

3 MR. BROWN: Mr. Carlton, I have an exhibit that  
4 wasn't included in the packet. It's just a photograph  
5 showing the willow and a propane tank, propane tank  
6 parked on the roadway servicing the Fehrts' property.

7 Madam Court Reporter, if you could just mark  
8 that as an exhibit that hasn't been used that would be  
9 great. Exhibit 8.

10 (Plaintiffs/Cross-Defendants' Exhibit 8 was  
11 marked for identification.)

12 **Q. BY MR. BROWN: This is a propane truck**  
13 **servicing a residence in front of the willow**  
14 **encroachments. Do you see that?**

15 A. Yes.

16 **Q. And the truck is parked so that there could be**  
17 **wait until they're done to go down the road, true?**

18 A. I would assume so, yes.

19 **Q. Under Larry's improvement plans there would be,**  
20 **the willow would be removed and there would be two lanes**  
21 **for travel, correct?**

22 A. Correct.

23 **Q. And so pursuant to Mr. Andresen's improvement**  
24 **plans you could have access to travel through the road**  
25 **during propane deliveries to the residential properties,**

Page 175

1 A. Technically you should.

2 **Q. Technically you should?**

3 A. Yes.

4 **Q. But that's not done, right?**

5 A. It's not currently done.

6 **Q. Because then nobody would ever be able to**  
7 **travel during the winter down the roads?**

8 A. Correct.

9 **Q. It's the county's general policy for**  
10 **maintenance activities on county roads that are not**  
11 **maintained that persons do not need to pull encroachment**  
12 **permits for the maintenance activities?**

13 A. There is no written policy that I'm aware of to  
14 that effect. But unless, you know, we're made aware of  
15 the situation we're not actively going out and pursuing  
16 encroachment permits from folks.

17 **Q. Unless there's a complaint that it impacts**  
18 **potential safety issues?**

19 A. That could be one reason, right.

20 **Q. So that is a factor that the county utilizes in**  
21 **determining whether to abate a public nuisance, safety**  
22 **issues?**

23 A. Yes.

24 **Q. What are some of the other factors?**

25 A. Well, I'm not trying to speak for code

Page 177

45 (Pages 174 to 177)

PMK: Trisha Marie Tillotson  
February 13, 2019

177



# ENCROACHMENT PERMIT APPLICATION

COUNTY OF NEVADA  
COMMUNITY DEVELOPMENT AGENCY  
DEPARTMENT OF PUBLIC WORKS  
950 MAIDU AVENUE, NEVADA CITY, CA 95959-8617  
(530) 265-1411 FAX (530) 265-9849  
[www.mynevadacounty.com](http://www.mynevadacounty.com)

COUNTY USE ONLY  
Permit # \_\_\_\_\_

## TO BE COMPLETED BY APPLICANT

### APPLICANT/PROPERTY OWNER

Name: Richard and Mary Fehrt  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone-cell: \_\_\_\_\_  
Phone - other: \_\_\_\_\_

### CONTRACTOR:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Email: \_\_\_\_\_  
Phone -cell: \_\_\_\_\_  
Phone - other: \_\_\_\_\_  
Contractor's License: \_\_\_\_\_

### ENCROACHMENT DETAILS

Encroachment Location/Site Address: \_\_\_\_\_ Truckee, CA 96161  
Event or Work start date: \_\_\_\_\_  
Event or Work end date: \_\_\_\_\_  
Description of even or work to be performed: Retain rock planter, vegetation and water box on Nevada County property in front of home located ay 10941 Floriston Avenue, Truckee, CA

### ENCROACHMENT TYPE

#### Construction

- Standard Driveway
- Private Road
- Parking Pad
- Other (Description of Other): Existing rock planter, vegetation and water box on Nevada County property
- Aggregate Surface
- Asphalt Concrete
- Concrete Surface
- Culvert
- Diameter \_\_\_\_\_ (in)
- Length: \_\_\_\_\_ (ft)
- No Drainage
- Valley Swale

#### Utilities

- Power
- Phone
- Water
- Sewer
- Cable TV
- Overhead
- Underground
- Other (Description of Other): \_\_\_\_\_
- Service Connection
- Mainline Extension
- Mainline Relocation
- Tree Work

#### Special Events

- Filming
- Athletic
- Parade
- Other

This permit is approved subject to payment of fees and Permittee's acceptance of conditions of approval. The start of any specified work shall constitute acceptance of all provisions. The permit shall become void if all work or event is not completed before the expiration date and is revocable at any time. Any voided or revoked permit shall become a violation, which will be handled in accordance with applicable State and County Regulations.

Applicant Signature: R. H. Fehrt  Date: 10/8/19

Printed Name: Richard H Fehrt

### FOR COUNTY STAFF USE ONLY

Exhibits	Fees	Qty	Total	Grand Total
<input type="checkbox"/> Traffic Control Plan	<input type="checkbox"/> Construction/Driveway	\$364.52	_____	_____
<input type="checkbox"/> Site Plan	<input type="checkbox"/> Admin/Event	\$129.72	_____	_____
<input type="checkbox"/> Insurance Certificate	<input type="checkbox"/> Additional Inspection	\$117.40	_____	_____
<input type="checkbox"/> Law Enf. Support	<input type="checkbox"/> Bond Deposit	\$ _____	_____	_____

### Status

- Approved w/Conditions: \_\_\_\_\_ Date Issued: \_\_\_\_\_
- Denied By: \_\_\_\_\_ Date: \_\_\_\_\_
- Finaled By: \_\_\_\_\_ Date: \_\_\_\_\_
- Date Exp: \_\_\_\_\_



# ENCROACHMENT PERMIT

COUNTY OF NEVADA - DEPARTMENT OF PUBLIC WORKS  
950 MAIDU AVENUE | NEVADA CITY, CA | 95959-8617  
(530) 265-1411 | FAX (530) 265-9849 | <http://www.mynevadacounty.com/nc/cda/pw>

**Permittee:**

Richard Fehrt

**Permit No.:** EP19-0115

**Issue Date:** 01/08/2020

**Expiration:** 01/11/2021

**Fee:** \$364.52

**Assessor Parcel No.:**

**Contractor:**

**Location of Encroachment:**

**Encroachment:** Construction

**Description:**

Repair rock planter per conditions of approval and retain existing encroachments including: vegetation, utilities, parking area, propane tank and water box on Nevada County Property in front of home located at 10941 Floriston Avenue.

For Development Projects - Construction per plans approved on

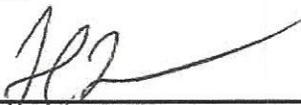
NA

This permit is approved subject to payment of fees and Permittee's acceptance of conditions of approval. The start of any Specified work shall constitute acceptance of all provisions. The permit shall become void if all contemplated work is not completed before the expiration date and is revocable at any time. Any voided or revoked permit shall become a violation which will be handled in accordance with applicable State and County regulations.

The permittee acknowledges the general conditions listed on "Encroachment Permit General Provisions" and receipt of general encroachment permit information BASED UPON PRECEDING AND ATTACHED CONDITIONS.

PLEASE NOTIFY THE PUBLIC WORKS DEPARTMENT AT (530) 265-1411, 48 HOURS PRIOR TO START OF WORK AND UPON COMPLETION OF WORK.

DIRECTOR OF PUBLIC WORKS BY

  
\_\_\_\_\_

**NEVADA COUNTY DEPARTMENT OF PUBLIC WORKS**  
**ENCROACHMENT PERMIT GENERAL PROVISIONS**  
Encroachment Permit # 19-0115

1. **Definition:** This Permit is issued under Chapter 5.5 of Division 2 of the Streets and Highways Code, and Nevada County Ordinance No. 727. The term encroachment, as used in this Permit, is defined in the said Chapter 5.5 of said Code, and Nevada County Ordinance No. 727. Except as otherwise provided for public agencies and franchise holders, this Permit is revocable on five-(5) day notice.
2. **No Precedent Established:** This Permit is granted with the understanding that this action is not to be considered as establishing any precedent on the question of the expediency of permitting any certain kind of encroachment within right-of-way of Nevada County highways.
3. **Keep Permit on Work-Site:** This Permit shall be kept at the site of the work and must be shown to any representative of Grantor or any law enforcement officer on demand.
4. **Protection of Traffic:** Adequate provision shall be made for protection of the traveling public. Barricades with lights shall be placed at night. All traffic control, including devices and personnel requirements, shall be as required by the current *State of California Manual of Traffic Controls for Construction and Maintenance Work Zones* and as directed by Grantor.
5. **Minimum Interference with Traffic:** All work shall be planned and carried out so there will be the least possible inconvenience to the traveling public. Traffic shall be permitted to pass at all times unless otherwise specified. One-way traffic may be maintained in the area of work only during daylight hours. Two-way traffic shall be maintained at all times during hours of darkness and, where practical, during daylight hours.
6. **Storage of Material:** No material shall be stored within eight (8) feet of the edge of pavement or traveled way or within shoulder lines where shoulders are wider than eight (8) feet.
7. **Clean Up right-of-way:** Upon completion of the work, all brush, timber, scraps or other materials shall be entirely removed and right-of-way left in as presentable a condition as before work started.
8. **Supervision of Grantor:** All the work shall be done subject to supervision of, and to satisfaction of Grantor.
9. **Liability for Damages:** Permittee is responsible for all liability for personal injury or property damage, which may arise out of work herein permitted, or which may arise out of failure on Permittee's part to perform their obligations under this Permit in respect to maintenance. In the event any claim of such liability is made against County of Nevada or any Department, officer, or employee thereof, Permittee shall defend, indemnify and hold them and each of them harmless from such claim. This Permit shall not be effective for any purpose unless and until above named Permittee files with Grantor a certificate of insurance naming the County of Nevada as additional insured when required by said Grantor. Said insurance certificate shall be in form approved by Grantor with minimum coverage of \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate.
10. **Care of Drainage:** The work herein contemplated shall not interfere with established drainage.
11. **Maintenance:** Permittee agrees by acceptance of the Permit to exercise reasonable care to maintain properly any encroachment placed by it in the highway, and to exercise reasonable care in inspecting for, and immediately repairing and making good any injury to any portion of the highway that occurs as a result of maintenance of encroachment in the highway or as a result of

work done under this Permit, including any and all injury to the highway that would not have occurred had such work not been done or such encroachment not placed therein.

12. **Making Repairs:** Permittee shall immediately begin work or effect repairs of maintenance of County improvements that have been disturbed by Permittee. After reasonable notice of the need for such repairs or maintenance, Grantor may elect to perform, or cause to have performed, the needed work and the cost shall be borne by Permittee. With no notice given, and as nearly as possible, any portion of the highway that has been excavated or otherwise disturbed and deemed hazardous may be immediately remedied by Grantor to its former condition. Grantor may elect to require a deposit before starting repairs in amount sufficient to cover estimated costs.
13. **Relocation:** Relocation of facilities or improvements authorized by this encroachment, if required by future road improvements, will be at the sole expense of Permittee in accordance with Section 1463 of the Streets and Highways Code.
14. **Rights Granted:** The rights granted under this Permit are limited to those possessed by County and County does not warrant it as adequate rights for the intended use.
15. **Time of Work:** Any work done from October 15 to May 15 shall be specifically authorized by Grantor. Projects partially completed during this time period shall be "winterized" to minimize erosion and tracking of mud onto roadway, as directed and approved by Grantor.
16. **As Is Condition of County Property; Disclaimer of Representations:** Permittee accepts County property in its "AS IS" condition without representation or warranty of any kind by County, its officers, agents, or employees, including and without limitation, the suitability or safety of County property or **any** facilities on County property for Permittee's use.

### **SPECIAL CONDITIONS**

17. **Floriston Avenue:** Regarding existing encroachments on Floriston Avenue, encroachments have been in place for an unknown period time as evidenced in numerous photographs and aerial photos. As such and due to the historical location of Floriston Avenue's travelled way, the following existing encroachments are not required to be removed at this time: parking area, vegetation and landscaping existing as of January 3, 2020 (not including the recently removed rock planter with vegetation and as shown in the exhibit submitted with the encroachment permit application), propane tank, walkways, utility lines and service boxes, any underground sewer lines/systems.
18. **Rock planter with vegetation:** The submitted exhibit and application describe the rock planter with vegetation that existed at the time of application and were then removed without a permit by another. Replacement of these improvements shall not occur without submittal and County approval of a plan showing any replacement planter and/or plantings further from the travel way than previously placed (at least 14 feet east of the edge of the western road right of way to allow for a one-lane Fire Standard Access Road standard to be achieved) and with restrictions that any plantings will not encroach into the travelled way.
19. **No new encroachments:** No new encroachments are approved nor permitted with this permit. Any existing vegetation in county right of way shall not infringe into the travelled way.
20. **Repair to Damaged Utilities:** If any existing utilities have been damaged as a result of unpermitted work that occurred on November 26, 2019 by another, they may be repaired under this permit. If work will impact the travelled way, prior to scheduled repair, a traffic control plan must be submitted for review and approval prior to the work occurring. See above conditions of

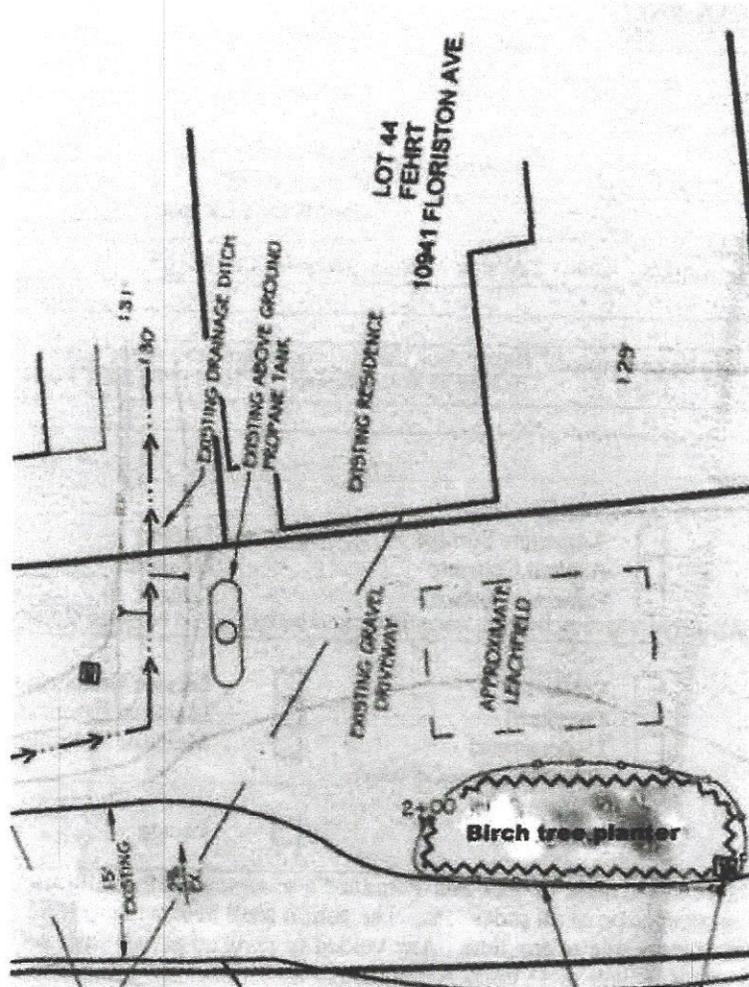
approval regarding traffic control and indicate if exceptions to condition of approval #5 are necessary. In addition, if a road closure is requested, 7 days advance notice is required for notification of emergency responders and posting of a sign notifying motorists of the closure. The notification sign must be indicated on the traffic control plan.

Ref: H:\PW\Engineering\Encroachments\2019\EP 19-0115 Floriston Fehrt\200106 EP Gen Provisions and Special Conditions.doc

From: **Mary and Dick Fehrt** mdfehr@gmail.com  
Subject: FW: Permit pdf read mode  
Date: October 11, 2019 at 9:20 AM  
To: .peterrivera@gmail.com



Encroachment-  
Permit-...19.pdf





County of Nevada-Department of Public Works

- Reviewed with No Exceptions
- Reviewed with Changes Noted
- Revise and Resubmit
- Rejected
- Review is in general conformance with County Road Standards and other applicable requirements.

Comments: Remove items marked w "X"

Project Name:

Contract #

Project # 11 0055

Submitted #

IS 19

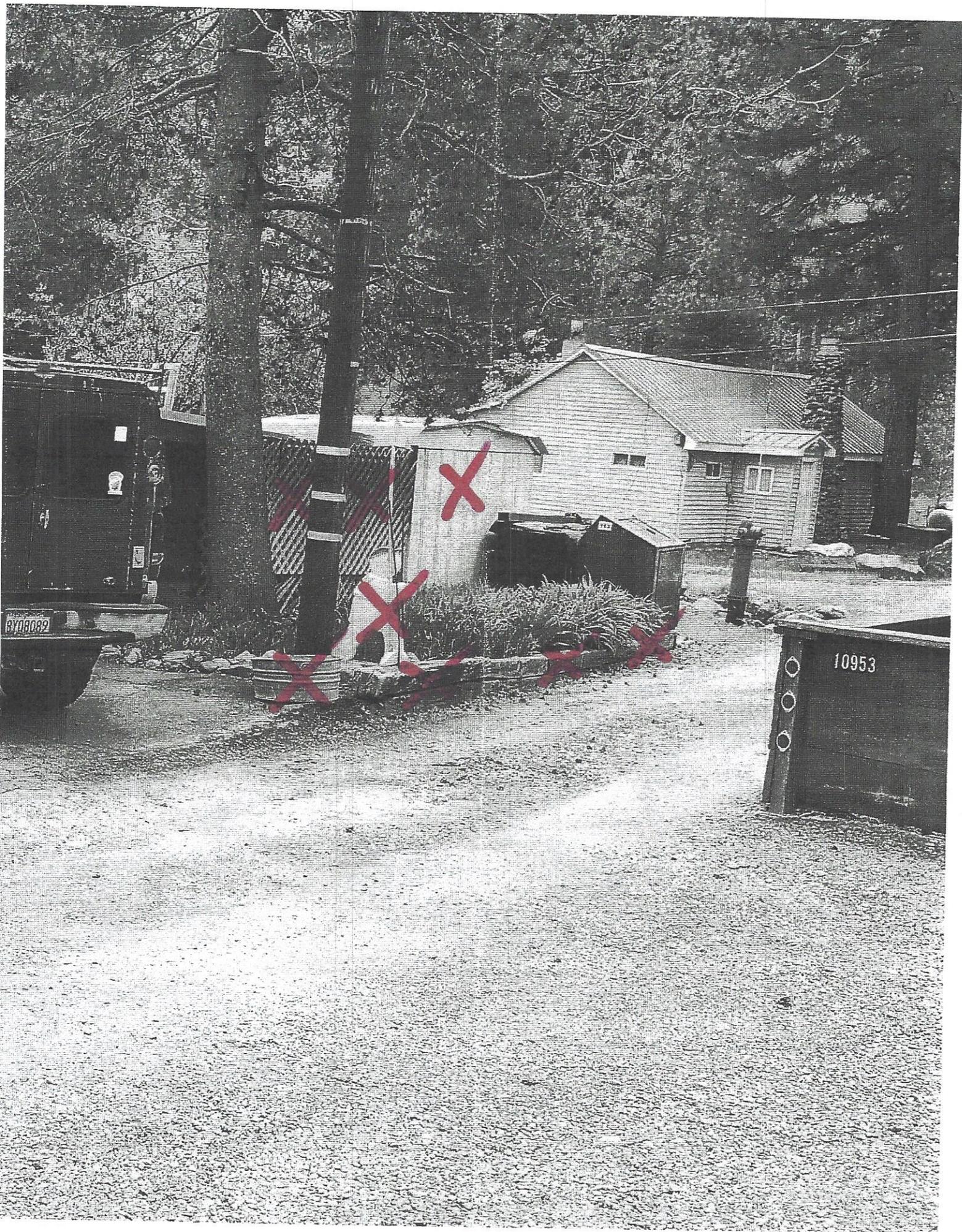
Review By

JWS  
JMT

Date:

10/17/11

10/8/19, upon further review & parking concerns, railro may remain.



**NEVADA COUNTY DEPARTMENT OF PUBLIC WORKS**  
**ENCROACHMENT PERMIT GENERAL PROVISIONS**  
REVISED December 19, 2019 – Revisions in Red Italics

1. **Definition:** This Permit is issued under Chapter 5.5 of Division 2 of the Streets and Highways Code, and Nevada County Ordinance No. 727. The term encroachment, as used in this Permit, is defined in the said Chapter 5.5 of said Code, and Nevada County Ordinance No. 727. Except as otherwise provided for public agencies and franchise holders, this Permit is revocable on five-(5) day notice.
2. **No Precedent Established:** This Permit is granted with the understanding that this action is not to be considered as establishing any precedent on the question of the expediency of permitting any certain kind of encroachment within right-of-way of Nevada County highways.
3. **Keep Permit on Work-Site:** This Permit shall be kept at the site of the work and must be shown to any representative of Grantor or any law enforcement officer on demand.
4. **Protection of Traffic:** Adequate provision shall be made for protection of the traveling public. Barricades with lights shall be placed at night. All traffic control, including devices and personnel requirements, shall be as required by the current *State of California Manual of Traffic Controls for Construction and Maintenance Work Zones* and as directed by Grantor.
5. **Minimum Interference with Traffic:** All work shall be planned and carried out so there will be the least possible inconvenience to the traveling public. Traffic shall be permitted to pass at all times unless otherwise specified. One-way traffic may be maintained in the area of work only during daylight hours. Two-way traffic shall be maintained at all times during hours of darkness and, where practical, during daylight hours.
6. **Storage of Material:** No material shall be stored within eight (8) feet of the edge of pavement or traveled way or within shoulder lines where shoulders are wider than eight (8) feet.
7. **Clean Up right-of-way:** Upon completion of the work, all brush, timber, scraps or other materials shall be entirely removed and right-of-way left in as presentable a condition as before work started.
8. **Supervision of Grantor:** All the work shall be done subject to supervision of, and to satisfaction of Grantor.
9. **Liability for Damages:** Permittee is responsible for all liability for personal injury or property damage, which may arise out of work herein permitted, or which may arise out of failure on Permittee's part to perform their obligations under this Permit in respect to maintenance. In the event any claim of such liability is made against County of Nevada or any Department, officer, or employee thereof, Permittee shall defend, indemnify and hold them and each of them harmless from such claim. This Permit shall not be effective for any purpose unless and until above named Permittee files with Grantor a certificate of insurance naming the County of Nevada as additional insured when required by said Grantor. Said insurance certificate shall be in form approved by Grantor with minimum coverage of \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate.
10. **Care of Drainage:** The work herein contemplated shall not interfere with established drainage.
11. **Maintenance:** Permittee agrees by acceptance of the Permit to exercise reasonable care to maintain properly any encroachment placed by it in the highway, and to exercise reasonable care in inspecting for, and immediately repairing and making good any injury to any portion of the highway that occurs as a result of maintenance of encroachment in the highway or as a result of work done under this Permit, including any and all injury to the highway that would not have occurred had such work not been done or such encroachment not placed therein.

12. **Making Repairs:** Permittee shall immediately begin work or effect repairs of maintenance of County improvements that have been disturbed by Permittee. After reasonable notice of the need for such repairs or maintenance, Grantor may elect to perform, or cause to have performed, the needed work and the cost shall be borne by Permittee. With no notice given, and as nearly as possible, any portion of the highway that has been excavated or otherwise disturbed and deemed hazardous may be immediately remedied by Grantor to its former condition. Grantor may elect to require a deposit before starting repairs in amount sufficient to cover estimated costs.
13. **Relocation:** Relocation of facilities or improvements authorized by this encroachment, if required by future road improvements, will be at the sole expense of Permittee in accordance with Section 1463 of the Streets and Highways Code.
14. **Rights Granted:** The rights granted under this Permit are limited to those possessed by County and County does not warrant it as adequate rights for the intended use.
15. **Time of Work:** Any work done from October 15 to May 15 shall be specifically authorized by Grantor. Projects partially completed during this time period shall be "winterized" to minimize erosion and tracking of mud onto roadway, as directed and approved by Grantor.
16. **As Is Condition of County Property; Disclaimer of Representations:** Permittee accepts County property in its "AS IS" condition without representation or warranty of any kind by County, its officers, agents, or employees, including and without limitation, the suitability or safety of County property or **any** facilities on County property for Permittee's use.

### **SPECIAL CONDITIONS**

17. **Floriston Avenue:** Regarding existing encroachments on Floriston Avenue, encroachments have been in place for an unknown period time as evidenced in numerous photographs and aerial photos. As such and due to the historical location of Floriston Avenue's travelled way, the following existing encroachments are not required to be removed at this time: bear box, parking area, laundry room connected to home (identified as "Shed" on the submitted sketch), vegetation (unless encroaching on travelled way), walkways, utility lines and service boxes, any underground sewer lines/systems. See below for encroachments to be removed. *Condition of Approval #19 has been met.*
18. **No new encroachments:** No new encroachments are approved nor permitted with this permit. The submitted sketch and email mention a new proposed fence. The fence is not authorized with this permit and shall not be constructed within the county right of way. No permanent storage shall occur in the county right of way for tires or other materials. Any existing vegetation in county right of way shall not infringe into the travelled way.
19. **Encroachments to be removed within 90 days:** The white shed, lattice between the white shed and laundry room (marked as "Shed" on the submitted sketch), bucket, plastic crossing figure and wooden curb adjacent to the travelled way as indicated on the submitted sketch shall be removed within 90 days of the issuance of this permit. *This condition of approval has been met.*  
  
10/8/19 Per the request of the applicant, additional time will be allowed through 11/30/19. *Condition #19 was addressed within this time frame.*
20. **Repair to Approved Encroachment:** *The permitted railroad ties were moved by another person without an encroachment permit. They may be replaced in the location previously approved.*
21. **Repair to Damaged Utilities:** *The water service line to the property is leaking. This could be a result of unpermitted work that occurred on November 26, 2019 by another. The water lines may*

*be repaired under this permit. Prior to scheduled repair, a traffic control plan must be submitted for review and approval prior to the work occurring. See above conditions of approval regarding traffic control and indicate if exceptions to condition of approval #5 are necessary. In addition, if a road closure is requested, 7 days advance notice is required for notification of emergency responders and posting of a sign notifying motorists of the closure. The notification sign must be indicated on the traffic control plan.*

*22. 12/19/19 Per the request of the applicant, additional time will be allowed through July 8, 2020.*

Ref: H:\PW\Engineering\Encroachments\2019\EP 19-0055\EP Gen Provisions and Special Conditions.doc