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**ROBERT A. LAURIE**

February 27, 2012

Board of Supervisors  
County of El Dorado  
330 Fair Lane  
Placerville, CA 95667

Re: Sundance

Dear Board Members:

On February 14<sup>th</sup> the Board voted its intent to deny the project and instructed staff to prepare findings for Board consideration. The project is back on the agenda for February 28<sup>th</sup> although no proposed findings have yet been submitted.

Although it may be fairly argued that because the project proposal includes a rezone application findings are not legally required; it is nevertheless good practice to adopt findings so as to help explain the Board's decision-making process and avoid a charge of arbitrary and capricious action (See California Land Use Practice by Lindgren and Mattas (2011), Section 1.48, Page 38).

The Board has focused on an alleged lack of groundwater capacity as a basis to deny the application. Yet, the reports by the applicant's own licensed hydrologist as well as the reports and testimony from the County's own staff conclude that there is no significant lack of capacity. In addition, under the County's General Plan, even if there is a concern over groundwater supplies, the remedy is to limit parcels to 10 acres or larger (Policy 5.2.3.5). The subject project consists of 10 acre parcels. A report was submitted by Mr. Bennett to support the argument that a lack of groundwater capacity exists in the area. Mr. Bennett's submittal purports to be based upon his expertise as a geotechnical engineer yet the law mandates that such a report be stamped and sealed if utilized for a final report. The submittal lacks the requisite requirements and must thus be rejected. It is also respectfully submitted that the Bennett report lacks supporting data and provides inadequate documentary support for its conclusions.

It is essential to consider the ramifications of a finding, formal or otherwise, that the area lacks groundwater capacity; for it is alleged not that the new proposal would cause a lack of capacity but rather such a lack of capacity currently exists. If this is the case then as a matter of health, safety and welfare the County would by necessity be obligated to take remedial action at this time to impose a moratorium on any additional well drilling within a designated area. Since the designated area of concern has not as yet been defined this would need to be determined. Also, since the admitted evidence supports the fact that agricultural irrigation would utilize even greater water resources than the proposed rural residential use; additional agricultural operations must also be restricted within a defined area.

The record before the Board which includes the entirety of the Planning Commission proceedings supports the following conclusions:

1. The project is consistent with the General Plan and the individual policies therein.
2. The project density is equal to or less than that of the surrounding community which is generally fully developed.
3. All environmental impacts have been mitigated.
4. The property cannot commercially sustain a use dedicated to dry land grazing and irrigated grazing would utilize even greater water than rural residential use.

In light of the above, it is respectfully submitted that denial of the application would lack any rational basis and would thus be deemed arbitrary and unreasonable. Your consideration is appreciated.

Very truly yours,



ROBERT A. LAURIE