

1 **TESTIMONY OF JOHN KRAMER**

2
3 I, John Kramer, declare:

4 **Introduction**

- 5 1. I am the Division Manager of Condor Earth Technologies (Condor). I have over 25 years
6 of professional environmental consulting experience and have been employed by Condor
7 since 1994. I have been a registered professional in the State of California since 1987 and
8 hold a PhD in geoscience and engineering disciplines. County & LAWC Exhibit I
9 contains an accurate statement of my qualifications and experience.
- 10 2. I am providing this expert testimony on the issues pertaining to the County of Alpine and
11 Lake Alpine Water Company (the "Applicants") Petition for Partial Assignment of State-
12 Filed Application 5648, Petitions to Change State-Filed Application, and Application
13 31523 (the "Project"), that will be discussed during the July 14, 2008, State Water
14 Resources Control Board (SWRCB) hearing to consider the Applicants petitions and
15 application.

16 **Background and Qualifications**

- 17 3. Condor Earth Technologies, Inc. (Condor) was retained by the County of Alpine
18 (County) and Lake Alpine Water Company (LAWC) to prepare the Environmental
19 Impact Report (EIR) required by the California Environmental Qualities Act (CEQA) for
20 the Project. This EIR will be referred to as the Bear Creek EIR in this testimony. The
21 Bear Creek EIR is attached as County & LAWC Exhibit C.

- 1 4. Condor is a geosciences and engineering consulting firm based in Sonora, California.
2 Since 1983, Condor has provided geoscience and engineering services, including
3 environmental consulting services. Condor employs a total of approximately 30
4 professionals and other staff in our Sonora office.
- 5 5. I was the licensed professional responsible for preparing the Draft and Final EIR certified
6 by the County and am competent to give testimony on it.
- 7 6. I understand others at the hearing will provide testimony about LAWC operations, the
8 hydrology and water availability of the area, and wastewater/sewage disposal. To avoid
9 repetition, I will focus my remarks on compliance of the EIR with CEQA and
10 environmental impacts identified in the EIR.

11 Bear Creek Water Rights EIR

- 12 7. The Bear Creek Water Rights project consists of securing water rights for the existing
13 water system at the community of Bear Valley. The Draft and Final EIRs delineate the
14 area of existing and proposed water use and describe the direct, indirect, and cumulative
15 impacts of the proposed Project on the existing (baseline) natural environment. The
16 County certified that the EIR was completed in compliance with CEQA and adopted the
17 Statement of Findings, Facts and Overriding Considerations on September 5, 2006. See
18 Exhibit D. The Notice of Determination was filed with the State Clearing House on
19 February 5, 2007. See Exhibit E. The State Clearing House number is 2006012049.

20 Project Objectives

- 21 8. Project objective is to obtain water rights to adequately serve development within the
22 Bear Valley Master Plan adopted by the County on December 28, 1978.

1 Physical Setting

2 9. The proposed Project is set within the Bear Valley resort development area, a small,
3 alpine community in Alpine County, California, within the Stanislaus National Forest on
4 the west side of the central Sierra Nevada Mountains. Bear Lake and Bear Creek are
5 located at an elevation of just over 7,000 feet mean sea level.

6 History and Background

7 10. The Bear Valley Master Plan (circa 1978, BVMP) established a plan for residential,
8 commercial, and recreation use and development on 870 acres in the Bear Valley area on
9 Highway 4.

10 11. An EIR was written for the BVMP and certified by the County on December 28, 1978. A
11 BVMP-EIR mitigation measure required the development of guaranteed water source and
12 the construction of a storage and distribution system adequate to meet State Public Utility
13 Commission General Order No. 103 requirements prior to final approval of any future
14 development. The Bear Creek Water Rights Project implements a mitigation measure
15 contained in the BVMP-EIR that required the development of a guaranteed water source
16 to serve the expansion proposed by the BVMP.

17 12. The Department of Health Services, Division of Drinking Water and Environmental
18 Management approved Bear Lake for the dual purpose of providing recreation with body
19 contact and providing a domestic water supply. Bear Lake is impounded behind Reba
20 Dam, State Dam No. 519, certified and inspected by the California Department of Safety
21 of Dams (DSOD).

22 13. Bear Lake has a 360 acre-feet (af) capacity, but LAWC's existing water rights only
23 authorize LAWC to divert a maximum of 240 af per year to storage, with a maximum

1 allowable withdrawal of 140 af. LAWC is also authorized to divert up to 42 acre feet by
2 direct diversion.

3 14. The Project is designed to achieve an increase in water supply availability by securing an
4 additional guaranteed source of water necessary to meet the anticipated future demands
5 and to support the infrastructure, and the build-out of Bear Valley as envisioned in the
6 master plan. LAWC and the County are seeking new water rights to put the remainder of
7 water that is stored (approximately 220 af) in Bear Lake to beneficial use and direct
8 diversion of an additional 175 afa from Bear Creek for a proposed total diversion of 395
9 afa.

10 15. Wastewater from the Bear Valley community, the Lake Alpine Recreation Area (USFS-
11 SNF), and the Bear Valley Ski Area is channeled to the Bear Valley Water District's
12 (BVWD) wastewater treatment plant (WWTP). BVWD operates under Waste Discharge
13 Requirements (WDR) Order No. R5-2005-0139 issued by the Central Valley Regional
14 Water Quality Control Board for land and surface water discharge.

15 Environmental Effects found to be less than significant in fourteen categories

16 16. The project involves only a change of reservoir operation and a small increase in
17 diversion at existing points of diversion. No new diversion or storage facilities will need
18 to be built. In addition, the project is located in an area surrounded by public lands with
19 no opportunity to induce growth beyond the pre-planned limits of the BVMP. Less than
20 significant effects were determined in fourteen CEQA categories listed in the FEIR on
21 page 7.

1 Potentially Significant Impacts and Mitigation Measures

2 17. Two CEQA subject areas, Hydrology/Water Quality and Utilities/Service Systems, were
3 found to have significant impacts from the Project.

4 Hydrology/Water Quality

5 18. The significant potential hydrology impact is from property damage and loss of life from
6 possible dam failure. The Project may expose people or structures to a significant risk of
7 loss, injury or death involving flooding, including flooding as a result of the failure of a
8 levee or dam. This impact is partially mitigated by maintaining compliance with the
9 existing operating permit through the California DSOD. This Mitigation Measure was
10 originally indicated in the BVMP-EIR; the dam already exists as a Significant Impact that
11 cannot be avoided.

12 19. This unavoidable impact was addressed in the Lead Agency's Statement of Findings,
13 Facts and Overriding Considerations. Based on the facts that: (a) no changes in operation
14 of the dam resulting from the Project threatens to increase the present risk; (b) the risk of
15 dam failure is low; (c) the dam is routinely inspected; and (d) the dam failure was already
16 previously identified as a significant but acceptable potential impact in the previous EIR;
17 the Lead Agency found that the impact was acceptable in light of the Projects benefits.

18 Public Utilities

19 20. The identified potential significant impact to Public Utilities is the future demand for
20 additional discharge capacity, although the Project itself will not require expansion of the
21 wastewater treatment facilities. The Project will result in the right to make available new
22 water supplies for the continued development of the BVMP and, in the future may not
23 allow the wastewater treatment provider (BVWD) to determine that it has adequate

1 capacity to serve the projected demand. This impact would be fully mitigated by
2 requiring the revising/updating of the WDRs, when necessary and as appropriate, through
3 the Regional Water Quality Control Board. This mitigation was incorporated in the Lead
4 Agency findings.

5 21. The Project will not conflict with any water quality standards or waste discharge
6 requirements, nor will the reductions in flow resulting from this appropriation cause a
7 violation of water quality objectives. Although a portion of the water applied for will be
8 used for domestic purposes, which will then require waste water treatment, the Project
9 proposes no specific development or changes to the waste disposal system. Future
10 development would be in the service area of the BVWD that discharges in compliance
11 with WDRs for sewage water disposal.

12 22. BVWD is the current wastewater provider that serves the community. At this time, the
13 proposed project will not result in additional wastewater generation and will not exceed
14 wastewater treatment requirements of the CVRWQCB. Additional water may cause an
15 exceedance in wastewater treatment requirements eventually; however, existing WDR
16 Orders are in place that will allow for future expansion in the Bear Valley community in
17 an environmentally sound manner. The 2005 WDR held by BVWD "provides for an
18 increase in the volume and mass of pollutants discharged" and that the increase "will not
19 have significant impacts on aquatic life," "will not cause a violation of water quality
20 objectives," "allows wastewater utility service necessary to accommodate housing and
21 economic expansion in the area," and "is considered to be a benefit to the people of the
22 State."

1 Alternatives

2 23. It was determined in the initial BVMP-EIR that alternate water sources could provide
3 water to the Bear Valley community.

4 24. CEQA requires that an EIR evaluate the comparative merits of the project alternatives,
5 and to identify the environmentally superior alternative (CEQA guidelines, Section
6 15126.6). In the Bear Creek, five alternatives were evaluated.

7 25. The First Alternative "Runoff from Bear Creek Drainage" would require constructing
8 additional diversion and storage facilities, thereby duplicating the function of existing
9 facilities, and would result in significant ground disturbance and impacts in and around
10 the drainage above Bear Lake.

11 26. The Second Alternative "Capture of additional spring water" would not provide dry-
12 season water dependability and may result in adverse biological impacts resulting from a
13 reduction of water to riparian habitat around the springs.

14 27. The Third Alternative "A groundwater well or well field" located in the meadow south of
15 Highway 4 or in Bear Valley Village would likely be the most reliable alternative source
16 in dry seasons, although the volume of available groundwater is currently unknown and
17 gasoline and MTBE contamination of the aquifer is known to exist. Development of
18 water wells, power delivery, and pipelines would require significant short-term ground
19 disturbance, with associated potential biological, archeological, noise, visual and other
20 types of impact. Once established there would be little potential for long-term adverse
21 environmental impacts, so long as the aquifer supply is adequate to support both the
22 meadow and the community. Groundwater drawdown around the wells could locally
23 impact wetlands, depending on the well location.

1 28. The Fourth Alternative "Water Conservation" is not expected to result in significant
2 additional water savings, and therefore would not accomplish most, or even a portion, of
3 the Project objectives. There would be no environmental impacts from this alternative.

4 29. The (Fifth) No Project Alternative could be considered the environmentally superior
5 project inasmuch as there would be no change in the existing development; however, it
6 would result in less potential for meeting project objectives.

7 Cumulative Impacts and Discussion

8 30. The Initial Study identified potential cumulative impacts to biological ecosystems
9 biology and downstream municipal, recreational, and agricultural users; however, facts
10 more fully developed in the EIR supported the finding that cumulative impacts are less
11 than significant.

12 Discussion of Irreversible Changes

13 31. According to CEQA Guidelines, the discussion of irreversible changes was not necessary
14 for the Bear Creek EIR.

15 Comments Received

16 32. Two comments were received during the EIR public comment period, one from
17 Calaveras County Water District and one from the California Department of Health
18 Services. These are summarized below:

19 **COMMENT #1: Calaveras County Water District (CCWD), dated July 5, 2006**

20 33. CCWD was concerned that a filing by Alpine County would allow the County permits
21 with a 1927 priority date that could be used to promote new development and that the
22 EIR should address this growth inducing feature of the project. In response, County

1 pointed out that the amount of water and clearly defined place of use prohibit any future
2 unplanned development, and where in the document this had been addressed.

3 **COMMENT #2: State of California, Department of Health Services, dated June 22, 2006.**

4 34. DHS was concerned that the project could result in modifications to existing water
5 treatment and distribution systems, and that any modifications should be permitted
6 through DHS. In response the EIR was modified to clearly state that the existing
7 treatment system is adequate to manage the increase in volume proposed by the project.

8 Concluding Statement

9 35. Evaluation of the Project in the Bear Creek EIR indicated:

- 10 • no alteration of the existing stream courses, dam, or water treatment facilities is
11 proposed as part of the Project;
- 12 • less than significant impact or less than significant cumulative effects to
13 biological ecosystems, or downstream water users (quality or quantity);
- 14 • less than significant growth inducing effects because the growth accommodated
15 was already planned and there is no available development land outside the area
16 of use;
- 17 • a potential significant impact to utilities (wastewater treatment capacity) is
18 mitigated by required compliance with discharge regulations;
- 19 • unavoidable potential significant impact from dam failure is an acceptable risk
20 that is not increased as a result of the project.

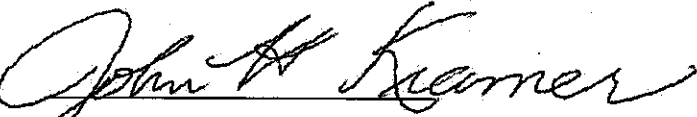
21 36. Based upon the analysis in the Bear Creek EIR, and the above adopted and described
22 mitigation measures, I do not believe the approval of the Applicants' water rights will
23 result in adverse environmental impacts, water quality impacts, or harm to public trust

1 resources such that would require the SWRCB to require additional conditions or
2 mitigation requirements.

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