

Poverty Flats Ranch – Supplemental Evidence & Findings

Appeal of Use Permit UP 23-09 / IS 23-20

Appeal No. PL-25-198

Submitted to:

Lake County Board of Supervisors
County of Lake, California

Hearing Date:

December 9, 2025

Submitted by:

Appellant:

Maria Kann and Associates
(On behalf of affected High Valley Road residents)

Project Location:

10535 High Valley Road
Clearlake Oaks, California 95423
(APN 006-004-22)

Project Applicant:

Poverty Flats Ranch, LLC

Document Title:

Supplemental Evidence and Findings
In Support of Reversing the Approval of UP 23-09

Prepared For the Administrative Record

Pursuant to CEQA, County Code, and applicable due-process requirements

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Chapter 2 - Supplemental Evidence to Road Safety

Submitted by Appellant — Additional Evidence, November 2025

A. COVER NOTE

A.1 Purpose of This Supplemental Addendum

This Supplemental Addendum provides additional substantial evidence, including quantitative crash-rate analysis, technical engineering evaluation, agency testimony, and professional standards, that were identified or compiled after completion of the October 13, 2025 Master Chapter 2: Road Safety.

Consistent with CEQA Guidelines §§15064 and 15164, this Supplemental Addendum is submitted to ensure that the administrative record includes all relevant, newly available evidence pertaining to roadway-safety impacts associated with the Poverty Flats project.

A.2 Relationship to the Existing Chapter 2

Nothing in this Addendum replaces, amends, or supersedes the existing Chapter 2 content. Instead, this Addendum expands and strengthens the evidentiary and analytical foundation of the original chapter by incorporating the following:

- Newly compiled CHP crash-rate data and segment-level collision analysis;
- New engineering interpretation of crash concentration on the Hwy 29–Dwinell “critical hazard segment”;
- Comparative crash-rate benchmarking using state and federal data;
- Expanded safety analysis under Caltrans HDM, AASHTO, NCHRP 910, and PRC §4290;
- Additional evidence of geometric non-compliance, downgrade–curve hazards, Horizontal Sightline Offset (HSO) deficiencies, and emergency-access failures;
- Expanded testimony from residents, Planning Commissioners, the Board of Supervisors, and professional experts;
- CEQA-required consideration of substantial evidence in the whole record.

A.3 Basis for Supplemental Submission

These materials were not available or not fully assembled at the time the 10/13 Master Chapter was finalized.

Because the information constitutes new substantial evidence, CEQA requires that it be included via a Supplemental Addendum rather than inserted into the main chapter text.

B. SECTION A — SUPPLEMENTAL ADDENDUM CONTENT

B.1 Summary of New Substantive Additions

No new substantive additions require an addendum.

The evidence presented in this section does not introduce new impacts, new technical standards, or new categories of CEQA analysis beyond those already covered in the Master Chapter.

B.2 Clarification Regarding Narrative Expansions

Minor narrative expansions included in the **November 16 version** did not introduce:

- new evidence,
- new legal standards, or
- new analytical frameworks.

These narrative clarifications simply improved explanation and readability without altering the substance of the analysis previously disclosed.

B.3 CEQA Context for This Section

Under CEQA, supplemental narrative clarifications do not constitute “new information” requiring recirculation unless they reveal:

1. A new significant impact;
2. A substantial increase in the severity of an impact; or
3. A feasible mitigation measure or alternative that was previously not disclosed.

Because none of those conditions apply here, this section serves only to document that **no substantive new additions** were made.

B. SECTION B — MISUSE OF VMT SCREENING & FAILURE TO APPLY SAFETY STANDARDS

B.1 Caltrans LDIGR Guidance Prohibiting Substitution of VMT for Safety Review

B.1.1 Principle

Lead agencies may not replace a required roadway-safety analysis with a Vehicle Miles Traveled (VMT) analysis. Caltrans’ 2020 LDIGR Safety Guidance states that VMT:

- is not a safety tool, and
- cannot substitute for evaluation of road geometry, conflict points, multimodal hazards, or access constraints.

[B-Add-1]

Clarification:

VMT is a GHG metric, not a safety metric. It may be used statistically in research, but Caltrans expressly prohibits using VMT screening thresholds to eliminate roadway-safety analysis.

CDD's error lies in misusing a GHG screening threshold to avoid performing the safety analysis CEQA requires.

B.1.2 Argument

Caltrans provided the following directive in 2020:

“Additional future guidance will include the basis for requesting transportation impact analysis that is not based on VMT... [and] will include a simplified safety analysis approach that reduces risks to all road users and that focuses on multi-modal conflict analysis as well as access-management issues.”

— *Caltrans, LDIGR Interim Safety Review Practitioners Guidance (July 2020)* [B-Add-1]

This confirms that:

- VMT is a GHG metric, not a safety metric. [B-Add-2]
- Agencies must conduct standalone safety analysis separate from VMT screening. [B-Add-1]
- Required safety analysis includes road geometry, conflict points, and access constraints—conditions that High Valley Road demonstrably fails. [B-Add-2]

Using the 110-trip/day VMT threshold to eliminate all safety review resulted in:

- use of the wrong metric,
- in the wrong setting,
- for the wrong regulatory purpose,
- in direct conflict with Caltrans guidance.

B.1.3 Conclusion

The County's misuse of a VMT screening threshold to avoid safety analysis violates Caltrans LDIGR guidance and constitutes a procedural and analytical CEQA error, requiring re-analysis of roadway-safety impacts.

B.1.4 Footnotes

[B-Add-1] Caltrans, *LDIGR Interim Safety Review Practitioners Guidance* (July 2020).

[B-Add-2] CEQA Guidelines §15126.2(a); Appendix G (safety and emergency-access criteria).

B.2 Supplemental Comparative Standards Tables (HDM, AASHTO, PRC §4290)**B.2.1 Principle**

Comparative evaluation of roadway-safety standards is required to determine whether the IS/MND omitted mandatory safety analysis. [B-Add-3]

B.2.2 Argument

Two supplemental tables compare:

- VMT screening vs. safety-standard requirements [B-Add-4], and
- Caltrans HDM / AASHTO standards vs. PRC §4290 fire-safe requirements [B-Add-5].

These comparisons demonstrate:

- PRC §4290 sets a minimum fire-safe access floor, not a roadway safety standard. [B-Add-6]
- HDM and AASHTO require higher geometric and operational safety than PRC §4290. [B-Add-7]
- High Valley Road fails even the minimum PRC §4290 standard and performs worse relative to HDM/AASHTO. [B-Add-8]

B.2.3 Conclusion

Because PRC §4290 cannot substitute for roadway design standards, relying on §4290 to justify the absence of HDM/AASHTO analysis renders the IS/MND incomplete and misleading under CEQA. [B-Add-9]

B.2.4 Footnotes

[B-Add-3] CEQA Guidelines §15126.2(a).

[B-Add-4] OPR, *Technical Advisory on Evaluating Transportation Impacts in CEQA* (2018), §G.

[B-Add-5] Caltrans HDM Ch. 200; AASHTO Green Book (2018); PRC §4290; 14 CCR §1270 et seq.

[B-Add-6] PRC §4290; 14 CCR §1273.00–1273.09.

[B-Add-7] HDM §201; AASHTO design-speed, sight-distance, and curve-safety standards.

[B-Add-8] Non-compliance findings documented in the Supplemental Addendum.

[B-Add-9] CEQA Guidelines §§15126.2(a), 15064, 15064(f)(1).

C. SECTION C — CUMULATIVE IMPACT ANALYSIS DEFICIENCIES

C.1 Program-Level Blind Spot in Cumulative Roadway-Safety Analysis

C.1.1 Principle

CEQA requires that cumulative-impact analysis evaluate past, present, and reasonably foreseeable projects in a manner that is substantive, non-illusory, and analytically complete. A cumulative analysis is legally inadequate when the methodology used by the lead agency precludes meaningful evaluation of cumulative hazards, or when it systematically omits foreseeable impacts associated with multiple

projects using the same constrained infrastructure. (Kings County Farm Bureau v. City of Hanford).[C-Add-1]

A lead agency may not rely on a screening threshold that is irrelevant to the impact category at issue—particularly where the threshold has the effect of preventing any cumulative safety analysis from occurring.[C-Add-2]

C.1.2 Argument

1. The County’s reliance on the 110-trip/day VMT threshold prevents transportation-safety analysis for all cannabis projects.

Every cannabis project utilizing High Valley Road (and other rural corridors) has been evaluated using a Vehicle Miles Traveled (VMT) screening threshold of 110 trips per day. Because no such project approaches that trip level, the County has screened out every project from transportation-safety analysis, including analysis of:

- roadway geometry deficiencies,
- sight-distance limitations,
- steep grades,
- collision history,
- emergency-vehicle conflicts, and
- evacuation constraints along single-access rural roads.

This screening threshold is designed solely for greenhouse gas/VMT analysis, not safety. Its universal application converts the entire cannabis program into a no-analysis regime for transportation safety.[C-Add-2]

CEQA does not permit the use of a threshold whose subject matter is unrelated to the impact being evaluated.[C-Add-3]

2. The cumulative record shows that no cannabis project has ever received a CEQA-compliant roadway-safety evaluation.

Review of project files reveals no instances where the County has conducted:

- a cumulative vehicle-trip assessment for shared corridors,
- cumulative evaluation of emergency-response interference,
- cumulative evacuation modeling for residents relying on the same substandard road,
- cumulative crash-rate analysis,
- cumulative analysis of roadway geometry for projects added over time, or

- cumulative review of PRC §4290 compliance in the context of multiple projects.

Instead, each project is screened out individually based on the 110-trip/day metric, meaning the County has created a program-wide analytical void in which no project is ever subjected to safety analysis — and therefore no cumulative analysis can occur.[C-Add-3]

3. The County has never quantified cumulative traffic or cumulative operational burdens on High Valley Road.

Although multiple cannabis projects rely on High Valley Road, the County has never calculated:

- total combined daily trips from all approved cannabis sites,
- overlapping seasonal traffic loads,
- cumulative truck deliveries (soil, supplies, water, harvest transport),
- cumulative employee and security traffic,
- cumulative emergency-response obstruction potential,
- cumulative evacuation loading under wildfire scenarios.

This absence makes it impossible to evaluate:

- incremental accident risk,
- likelihood of roadway blockages,
- cumulative wear, deterioration, or dust impacts, or
- combined burdens on residents during evacuation.

The failure to quantify cumulative operational conditions renders the cumulative analysis illusory, because the County cannot meaningfully determine whether additional projects will exacerbate existing hazards.[C-Add-3][C-Add-4]

4. The screening methodology creates a mathematical impossibility of CEQA compliance.

Because:

- Only projects generating more than 110 trips/day undergo transportation study, and
- No cannabis project generates 110 trips/day,

it is mathematically inevitable that no transportation-safety analysis will ever occur, regardless of:

- roadway condition,
- collision frequency,
- known geometric failure points,

- severity of emergency-access limitations,
- or number of cumulative projects.

This is the type of “illusory” methodology CEQA prohibits: one in which the method dictates the outcome before any facts are considered.[C-Add-1][C-Add-3]

The resulting absence of cumulative analysis is not an accident of judgment — it is a structural design flaw.

5. The County identifies cumulative projects but conducts no cumulative evaluation of their combined risk.

Project files commonly include:

- maps showing cannabis projects within one-mile and three-mile radii,
- acknowledgment that multiple projects use High Valley Road,
- references to geographic clustering of operations.

However, despite recognizing the existence of cumulative projects, the County:

- does not aggregate their trips,
- does not evaluate overlapping operations,
- does not assess the combined burden on a single-access rural road,
- does not examine cumulative evacuation implications, and
- does not analyze cumulative roadway-safety hazards for any cluster.

This mismatch—recognizing cumulative projects but conducting no cumulative analysis—is precisely the defect identified in Kings County.[C-Add-1]

6. The cumulative analysis disregards extensive, readily available evidence in the administrative record.

The record includes:

- documented collision history on High Valley Road,
- responsible-agency warnings (CHP),
- repeated Planning Commission concerns,
- Board of Supervisors recognition of recurring truck accidents,
- resident documentation of crashes and blockages,
- geometric measurements showing non-compliance with state safety standards.

CEQA requires analysis of the whole record, not selective reliance on a GHG screening threshold that excludes all of this evidence.[C-Add-5]

C.1.3 Conclusion

The County’s cumulative-impact methodology for transportation safety is fundamentally defective because:

- It relies on a threshold irrelevant to roadway-safety impacts,
- It precludes any project-level safety analysis,
- It precludes any cumulative safety analysis,
- It ignores known hazards documented throughout the record, and
- It results in a cumulative analysis that is illusory, contrary to CEQA’s requirements.[C-Add-1][C-Add-3][C-Add-5]

Because substantial evidence shows a fair argument that cumulative roadway-safety impacts may be significant, CEQA requires preparation of an Environmental Impact Report (EIR).[C-Add-1][C-Add-3]

C.1.4 Footnotes — Section C Addendum

[C-Add-1] *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692 (cumulative impact analysis may not be illusory).

[C-Add-2] OPR, *Technical Advisory on Evaluating Transportation Impacts in CEQA* (2018), Section G (110-trip/day threshold applies solely to VMT/GHG screening, not safety or emergency access).

[C-Add-3] CEQA Guidelines §15130 (requirements for cumulative analysis).

[C-Add-4] CEQA Guidelines §15126.2(a) (hazards, emergency access, and cumulative worsening of conditions must be disclosed).

[C-Add-5] Pub. Res. Code §21167.6(e) (whole record requirement).

D. SECTION D — SUBSTANTIAL EVIDENCE OF ROADWAY HAZARDS

D.1 Newly Compiled Planning Commission Testimony

D.1.1 Principle

Under CEQA, decisionmaker observations, agency deliberations, and lay testimony supported by facts constitute substantial evidence of potentially significant impacts. Statements by Planning Commissioners during public hearings are direct evidence of safety hazards and cannot be disregarded. (CEQA Guidelines §15384.)

D.1.2 Argument

1. Liu Farms Hearing — Lake County Planning Commission (June 2024)

During deliberations on the Liu Farms cannabis application, multiple Commissioners provided firsthand roadway-safety assessments based on site visits, photographs, and staff briefing materials.

Commissioner Hess (June 2024 Planning Commission Hearing) stated:

“It seems crazy to me that some of these semi-trucks would even have attempted that road in the first place.”

“The tight turn — that horseshoe — I don’t know how anyone could think full-size commercial trucks belong on that section.”

These remarks directly acknowledge that High Valley Road contains geometry incompatible with large trucks, confirming a safety-constraint ignored in County CEQA documents.

Commissioner Price (June 2024 Planning Commission Hearing) stated:

“A semi driver... hits that horseshoe... there’s no denying that truck should not have been on that road.”

“Every time that a project comes up here, I see a truck stuck on that curve.”

“Regardless of exactly where that truck was stuck, it was stuck. And it was stuck for a very long time.”

This testimony confirms a repeated, documented pattern of heavy-vehicle immobilization causing roadway blockages — a major CEQA safety factor.

2. Poverty Flats Hearing — Lake County Planning Commission (May 2025)

During the Poverty Flats hearing, Commissioners expressed direct concerns about cumulative safety risk on High Valley Road:

Commissioner Rosenthal (May 2025 Planning Commission Hearing):

“I can’t continue to approve these projects until we have some answers to that [the road-safety problem].”

Chair Chavez (May 2025 Hearing):

“It’s already an issue up there, and there will be an increase in traffic.”

Commissioner Fields (May 2025 Hearing):

“When a child gets hit, how am I going to feel?”

This testimony is directly tied to school-area conflicts, which CEQA specifically requires to be evaluated.

D.1.3 Conclusion

Planning Commissioners have repeatedly and consistently identified specific safety hazards — including geometric failures, truck immobilizations, deteriorating surfaces, and school-adjacent conflicts — that

contradict the IS/MND’s “no impact” findings and independently trigger the fair argument standard requiring an EIR.

D.1.4 Footnotes — D.1 Planning Commission Addendum

[D-Add-1] Lake County Planning Commission Hearing, Liu Farms Cannabis Project, June 2024 (remarks of Commissioners Hess, Chavez, Price).

[D-Add-2] Lake County Planning Commission Hearing, Poverty Flats Cannabis Project, May 2025 (remarks of Commissioners Rosenthal, Chavez, Fields).

[D-Add-3] CEQA Guidelines §15384 (substantial evidence includes factual testimony and decisionmaker observations).

D.2 Board of Supervisors Testimony (Expanded With Speakers, Dates, and Context)

D.2.1 Principle

Statements by elected officials during formal proceedings are substantial evidence of environmental and public-safety hazards under CEQA. Such statements carry heightened weight when they acknowledge ongoing or systemic safety failures affecting a project site or its access road.

Statements by elected officials regarding safety hazards and infrastructure limits constitute substantial evidence.

D.2.2 Argument

1. Monte Cristo Appeal — Board of Supervisors Hearing (December 5, 2022)

During the hearing on the Monte Cristo cannabis appeal, multiple Supervisors expressed serious concerns about High Valley Road’s condition:

Supervisor Sabatier (Dec. 5, 2022 BoS Hearing):

“The road sucks out there, and we need to do a better job.”

“This community looks like it’s been neglected... this road needs real attention.”

These official acknowledgments confirm that High Valley Road has longstanding deficiencies that increase risk for all users.

2. Road Priorities Workshop — Board of Supervisors (March 11, 2025)

Chair Crandell (BoS Public Workshop, March 11, 2025):

Referred to the need for engineering analysis of the dangerous hairpin curve, including truck-movement templates and line-of-sight evaluation.

Public Works Director Glenn March (March 11, 2025):

“We’re going to have an engineer look at the truck-movement templates for that turn.”

“We know we need to examine that horseshoe corner more closely.”

These statements reflect an agency-level recognition of hazardous geometric conditions.

Vice Chair Rasmussen (March 11, 2025):

“We’re at three semi-truck accidents in the last seven months.”

This is direct confirmation of frequent commercial-vehicle collisions, underscoring the need for cumulative-safety evaluation.

D.2.3 Conclusion

Board of Supervisors testimony establishes:

- official recognition of unsafe road conditions,
- awareness of repeated truck accidents,
- acknowledgment of known geometric hazards, and
- need for engineering analysis not yet performed.

These admissions constitute substantial evidence that CEQA-required safety evaluations were omitted.

D.2.4 Footnotes — D.2 BoS Addendum

[D-Add-4] Lake County Board of Supervisors Hearing, Monte Cristo Cannabis Appeal, Dec. 5, 2022 (statements of Supervisor Sabatier).

[D-Add-5] Lake County Board of Supervisors Road Priorities Workshop, March 11, 2025 (statements of Chair Crandell, Director March, and Vice Chair Rasmussen).

D.3 Resident and Community Testimony (Expanded With Speakers, Dates, and Context)

D.3.1 Principle

Resident observations, when based on firsthand experience, constitute substantial evidence under CEQA (Guidelines §15384(a)). Testimony from individuals with specialized knowledge (e.g., engineers, former public works directors) carries additional evidentiary weight.

D.3.2 Argument

(Submitted during various public-comment periods; verbal comments at multiple Planning Commission hearings, 2023–2025.)

1. Testimony of Gerry Shaul — Former Director, Lake County Department of Public Works (Written comments submitted October 5, 2023)

Mr. Shaul provided detailed, firsthand, expert-level observations about High Valley Road based on decades of professional experience and a lifetime of familiarity with the area. His background establishes the weight of his testimony:

“I was employed by the Lake County Public Works Department for 27 years; 18 of those years as the Public Works Director. I am very familiar with the area, as well as the capabilities of the County to maintain High Valley Road.”

He identified several off-site impacts that the Initial Study failed to address:

“The ‘off-site’ impacts and appropriate mitigation measures appear to have been overlooked.”

He further observed that the traffic baseline was improperly defined because CEQA analysis compared project traffic to Highway 20 instead of the actual affected roadway:

“The study fails to identify the current daily traffic on High Valley Road at the project site... I believe that this information may put the project’s traffic impact into the proper perspective.”

Mr. Shaul described significant seasonal variations in road conditions that affect traction, braking distance, emergency access, and evacuation safety:

“In the summer, this road has a surface of ‘powder’ that gives ‘fugitive dust’ a whole new meaning due to the magnitude of the dust.”

“In the winter, the road is highly erosive from the surface runoff and is frequently passable only by high clearance, four-wheel drive vehicles.”

He described a documented geometric hazard at the switchback near Cerrito Drive:

“On the paved portion of High Valley Road at its intersection with Cerrito Drive is a narrow switchback which requires trucks and parcel vans to use the entire roadway, thus encroaching into the oncoming traffic lane.”

On the County’s limited maintenance capabilities, he stated:

“The dirt portion of High Valley Road... is basically a ‘proceed at your own risk’ roadway.”

He then detailed the consequences of delayed grading:

“This year, the road did not get graded until mid-June. The ruts from the winter weather in the vicinity of the project were so deep and meandering down the road, that it was impassable to a passenger vehicle.”

Taken together, these statements provide highly specific, professionally informed descriptions of severe roadway deficiencies directly relevant to CEQA topics such as emergency access, evacuation feasibility, transportation hazards, and cumulative impacts.

2. Testimony of Maria Kann — Resident of High Valley Road Area (Planning Commission oral testimony, 2024–2025)

Ms. Kann described multiple incidents involving truck immobilizations, traffic blockages, and dangerous interactions with school traffic. Her testimony includes:

“A semi-truck was stuck on the curve by the school for at least 45 minutes — probably closer to an hour — and no one could get through in either direction while it was blocking the road.”

“I have had to pull completely off the road many times because trucks lose control of their line and drift over the centerline on that downhill curve.”

“There was a day during peak operations when two trucks were stuck at the same time — one trying to come up and one trying to come down — and school traffic had to wait because neither of them could make the turn.”

“If this happens during a fire evacuation, people will die.”

Her testimony provides direct, specific evidence of:

- prolonged full-road blockages,
- uncontrolled truck movements into opposing lanes,
- school-area conflicts, and
- evacuation vulnerabilities.

3. Testimony of Chuck Lamb — Board of Supervisors Public Comment (March 2025)

Mr. Lamb submitted the following statement:

“We have had three truck accidents on that road in the last seven months.”

This testimony corroborates:

- the documented collision history,
- DPW staff admissions, and
- Commissioner concerns raised in multiple hearings.

Repeated accidents over a short time window demonstrate systemic, recurring hazards, not isolated events.

4. Community-Documented Evidence (Photographs, Video, ERTB Committee Submissions)

Residents have repeatedly submitted video and photographic documentation showing:

- trucks reversing long distances around blind curves,
- vehicles stuck in ditches,
- school traffic stalled behind immobilized trucks,
- dust plumes reducing visibility, and

- ruts deep enough to catch axles.

Accompanying statements include:

“This is the second truck this month that had to reverse all the way back around the curve because it couldn’t make the turn.”

“Traffic was stopped for 30 minutes after the truck slid into the ditch — no one could get around it.”

“You can see the damaged guardrail and the tire tracks every time it rains.”

These observations reflect recurring, foreseeable hazards that CEQA requires to be analyzed.

D.3.3 Conclusion

The resident and community testimony described above — including detailed professional input from a former Public Works Director, firsthand accounts of roadway blockages, explicit descriptions of geometric failures, and repeated reports of accidents — constitutes substantial evidence that the project may result in significant roadway-safety and emergency-access impacts.

Under the CEQA fair-argument standard, this testimony alone is sufficient to require preparation of an Environmental Impact Report (EIR).

D.3.4 Footnotes — Section D.3 Addendum

[D-Add-6] Comments of Gerry Shaul, former Director of Public Works, “Lemon Glow Cannabis Cultivation Project,” October 5, 2023.

[D-Add-7] Public testimony of Maria Kann, Lake County Planning Commission hearings (2024–2025).

[D-Add-8] Public testimony of Chuck Lamb, Board of Supervisors meeting (March 2025).

[D-Add-9] ERTH Committee community submissions and resident-documented video/photo evidence (2023–2025).

D.4 Integrated Conclusion for Section D

D.4.1 Principle

When multiple independent lines of substantial evidence (decisionmaker testimony, expert analysis, resident observations, and documentary proof) all point to the same pattern of serious roadway hazards, CEQA’s fair-argument standard is met, and an EIR is required.

D.4.2 Argument

- D.1 shows that the Planning Commission has repeatedly and specifically identified High Valley Road as hazardous, citing geometric failures, truck immobilizations, and school-adjacent conflicts.

- D.2 shows that the Board of Supervisors has officially acknowledged that the road “sucks,” has been “neglected,” has a dangerous horseshoe curve that needs engineering study, and has seen three semi-truck crashes in seven months.
- D.3 adds expert and resident testimony documenting:
 - grades, ruts, dust, and winter erosion so severe that portions are “proceed at your own risk,”
 - repeated full blockages by trucks, including near the school,
 - multiple accidents in a short period, and
 - extensive photographic and video evidence of these events.

Taken together, these lines of evidence describe foreseeable, recurring, and severe safety hazards directly along the project’s sole access corridor.

D.4.3 Conclusion

The combined evidence in Section D — from Commissioners, Supervisors, a former Public Works Director, local residents, and community submissions — establishes that High Valley Road suffers from:

- systemic geometric and operational deficiencies,
- repeated truck crashes and immobilizations,
- school-area and evacuation-route conflicts, and
- conditions far beyond what CEQA considers acceptable for safe project access.

Standing alone, Section D’s evidence is sufficient under CEQA’s fair-argument standard to require preparation of an Environmental Impact Report (EIR) for the Poverty Flats project.

E. SECTION E — §4290 AND ENGINEERING ANALYSIS SUPPLEMENT

E.1 Curve-Approach Safety and Downgrade Interactions (Caltrans HDM §201; AASHTO Green Book)

E.1.1 Principle

Caltrans Highway Design Manual (HDM) §201 and AASHTO Green Book Chapter 3 require that horizontal curves placed immediately after steep downgrades be evaluated for:[E-Add-1]

- Stopping Sight Distance (SSD) adjustments for sustained grades,
- Elimination of low-design-speed curves following high-speed tangents or downgrades,
- Provision of middle-ordinate clearance so drivers can see the roadway around the curve,
- Consideration of Decision Sight Distance (DSD) where pedestrian generators, conflict points, or special hazards (such as schools) are present.[E-Add-2]

These standards exist because downgrade–curve combinations significantly increase accident risk due to higher operating speeds, increased braking distance, and reduced reaction windows.

E.1.2 Argument

1. Steep downgrades precede both of High Valley Road’s primary hazard curves.

The two principal geometry failure points on High Valley Road—the school-zone downgrade curve and the hairpin horseshoe turn—are each located immediately after sustained downhill slopes. Vehicles traveling downgrade arrive at these curves with:

- higher operating speeds than assumed by design speed,
- increased braking distance due to vertical grade,
- decreased traction on earthen or compromised pavement surfaces.

Under HDM §201.6(4), SSD must be increased by approximately 20% for sustained grades greater than 3%. [E-Add-3]

Both curves meet or exceed this threshold.

2. Required middle-ordinate sight clearance is not available.

HDM Chapter 201 requires sufficient middle-ordinate clearance to allow drivers to see approaching vehicles around a horizontal curve. [E-Add-4]

At both hazard locations:

- roadside vegetation,
- inside-curve embankments,
- private fencing and structures

obstruct the sightline, reducing available sight distance below minimum SSD and, in school areas, below DSD.

3. The downgrade school-frontage curve warrants Decision Sight Distance (DSD).

AASHTO identifies school zones as high-risk conflict environments requiring DSD rather than SSD.

The school-frontage curve on High Valley Road has:

- downgrade approach,
- limited visibility,
- regular child pedestrian activity,
- known commercial-vehicle conflicts. [E-Add-5]

Under AASHTO DSD tables, required sight distance is substantially greater than the SSD minimum.

E.1.3 Conclusion

The roadway geometry at the school curve and the horseshoe curve does not meet essential Caltrans HDM and AASHTO safety principles, even before considering PRC §4290.

The downgrade–curve combinations create foreseeable collision hazards, confirming that project traffic may result in significant roadway-safety impacts requiring full CEQA analysis.

E.1.4 Footnotes — Section E.1

[E-Add-1] Caltrans Highway Design Manual (HDM) §201; curve and grade interaction requirements; SSD and middle-ordinate evaluation standards.

[E-Add-2] AASHTO Green Book, Chapter 3: Sight Distance; DSD requirements for school zones and pedestrian conflict areas.

[E-Add-3] HDM §201.6(4): SSD increase for sustained grades >3%.

[E-Add-4] HDM §201.7: Middle-ordinate sight clearance requirements for horizontal curves.

[E-Add-5] AASHTO Green Book Table 3-4 (Decision Sight Distance), school-zone application.

E.2 Horizontal Sightline Offset (HSO) Deficiencies (NCHRP Report 910)

E.2.1 Principle

Horizontal Sightline Offset (HSO) is required where objects on the inside of a horizontal curve—such as vegetation, structures, rock cuts, or earthen berms—restrict the driver’s ability to see oncoming vehicles.[E-Add-6]

NCHRP Report 910 confirms that even when a curve meets minimum radius requirements, inadequate HSO independently creates a collision hazard because drivers cannot detect approaching traffic in time to correct their path or adjust speed.[E-Add-7]

E.2.2 Argument

1. Vegetation, slope banks, and structures obstruct sight distance at both major curves.

Field-verified evidence shows:

- At the school-zone curve, inside-curve vegetation and slope banks block the sightline for vehicles descending the grade, preventing drivers from observing oncoming vehicles, school-bound traffic, or pedestrians until entering the curve radius itself.
- At the hairpin horseshoe turn, inside-radius fencing, earth embankments, and vegetation restrict visibility to such an extent that drivers cannot visually confirm the presence of opposing vehicles navigating the wide turn.

2. Available sight distance is below both SSD and DSD requirements.

Due to HSO obstruction:

- SSD is not achieved under HDM Chapter 201,[E-Add-8]
- DSD is not achieved under AASHTO for the school-frontage hazard zone,[E-Add-9]

- Vehicles must operate at significantly lower speeds than typical for rural collectors to maintain safety, creating an operational mismatch.

NCHRP 910 identifies this specific situation—acceptable curve radius but inadequate HSO—as a primary cause of rural roadway crashes.

E.2.3 Conclusion

HSO limitations at both major curves constitute standalone, significant safety hazards under CEQA. They directly affect crash likelihood, emergency vehicle operations, and evacuation performance, and must be evaluated in an EIR.

E.2.4 Footnotes — Section E.2

[E-Add-6] NCHRP Report 910: “Guidance for the Design of Horizontal Curve Sightlines.”

[E-Add-7] NCHRP 910 findings: inadequate HSO as independent crash factor even when curve radius meets minimums.

[E-Add-8] HDM Chapter 201 SSD tables; minimum sight-distance shortfalls documented in field conditions.

[E-Add-9] AASHTO DSD evaluation demonstrating shortfalls at school-frontage downgrade curve.

E.3 Grade, Surface, and Load-Bearing Non-Compliance (PRC §4290; 14 CCR §1273)

E.3.1 Principle

Fire Safe Regulations require:[E-Add-10]

- Maximum 16% grade (PRC §4290; 14 CCR §1273.06),
- All-weather surface capable of supporting a 40,000-lb load (14 CCR §1273.04),
- Two-way vehicle operations suitable for emergency response.

These are minimum requirements; local agencies may apply stricter standards in hazardous terrain.

E.3.2 Argument

1. Existing grades exceed the 16% maximum by a substantial margin.

Slope measurements along High Valley Road show multiple segments at **30–37%**, far above the allowable grade for emergency access roads.

Such grades:

- exceed fire-engine climbing capability under load,
- increase braking distances when descending,
- create loss-of-traction hazards on unpaved or compromised surfaces,
- increase turnaround and backup risks on narrow sections.[E-Add-11]

2. Road surfaces do not qualify as all-weather.

The unpaved segments of High Valley Road:

- fail to support 40,000-lb emergency apparatus,
- become deeply rutted and impassable after winter storms,
- generate several inches of loose powder in summer that prevents tire-surface contact,
- necessitate “proceed at your own risk” travel conditions (as described by residents and DPW personnel).[E-Add-12]

3. These deficiencies were not identified or analyzed in the IS/MND.

Despite being quantifiable conditions, the IS/MND contains no evaluation of grades, surface composition, or load-bearing capacity, nor does it analyze the implications for evacuation, emergency access, or cumulative safety.[E-Add-13]

E.3.3 Conclusion

Grade exceedances and surface non-compliance constitute objective, measurable violations of state fire-safe standards and undermine emergency-vehicle access.

Their omission from the IS/MND results in a significant analytical deficiency requiring EIR-level evaluation.

E.3.4 Footnotes — Section E.3

[E-Add-10] Public Resources Code §4290; 14 CCR §1273.04–1273.06 (Fire Safe Regulations).

[E-Add-11] Fire-engine operational limitations under steep-grade conditions documented in CalFire access manuals.

[E-Add-12] Resident and DPW testimony documenting rutting, powder, and seasonal impassability.

[E-Add-13] CEQA Guidelines §15126.2(a); Appendix G (transportation hazards and emergency access).

E.4 Crash-Rate and Collision-Density Evidence

E.4.1 Principle

CEQA requires agencies to evaluate both fire-safe access compliance under PRC § 4290 and the broader category of roadway-safety hazards, including collision history, substandard geometry, emergency-access limitations, and foreseeable operational risks. CEQA Guidelines §15126.2(a) and Appendix G require analysis of any condition that may “substantially increase hazards,” and a lead agency may not disregard technical or empirical evidence submitted by the public.

Where new, credible data show that a roadway (1) fails to meet PRC §4290’s minimum access standards and (2) operates at crash rates far exceeding statewide and national norms, CEQA prohibits approval unless the deficiencies are corrected at the time of approval. Deferred mitigation, unenforceable commitments, or post-approval promises are legally insufficient for life-safety impacts, and proceeding without correction constitutes a prejudicial abuse of discretion.[E-Add-14]

E.4.2 Argument

1. Updated CHP data identify a 2.1-mile “critical hazard segment” with concentrated collisions.

Refined incident analysis shows that approximately **90% of all recorded crashes** on High Valley Road occur within the **2.1-mile segment** between Highway 29 and Dwinell Drive.

This segment contains multiple non-compliant geometric features documented in the original chapter.

In the past three years, this segment has experienced **21 crashes**, averaging **7 per year**—far higher than previously understood.[E-Add-15]

2. Segment-level incident-rate calculation confirms extreme hazard conditions.

Using the same AADT estimate applied in the original analysis (200 vehicles/day), the Hwy 29–Dwinell Drive segment carries approximately:

Annual VMT $\approx$ 153,300 vehicle-miles/year

Crash rate per Million Vehicle Miles (MVM):

(7 crashes/year $\times$ 1,000,000) / 153,300 $\approx$ 45.7 crashes/MVM

This crash rate is extraordinarily elevated and indicative of systemic deficiencies.

3. Comparison to California and U.S. baselines shows extreme hazard elevation.

3a. Caltrans State Highway baseline: 0.9 crashes/MVM[E-Add-16]

Relative factor = 45.7 / 0.9 $\approx$ 50.8

→ High Valley Road is operating at **$\approx 51\times$** the rural-highway rate.

3b. California statewide injury+fatal crash rate: 0.51 crashes/MVM[E-Add-17]

Relative factor = 45.7 / 0.51 $\approx$ 89.6

→ High Valley Road is operating at **$\approx 90\times$** the statewide rate.

3c. National all-public-roads rate: 1.96 crashes/MVM[E-Add-18]

Relative factor = 45.7 / 1.96 $\approx$ 23.3

→ High Valley Road is operating at **$\approx 23\times$** the national rate.

3d. Combined interpretation.

All three benchmarks converge on the finding that High Valley Road’s crash rate is:

- $\approx 23\times$ national
- $\approx 51\times$ California rural-highway
- $\approx 90\times$ statewide injury+fatal

These ratios confirm an extraordinarily hazardous roadway environment far beyond CEQA-acceptable conditions.

4. This new evidence strengthens—rather than replaces—the original Road Safety Chapter findings.

The documented width deficiencies, curve-radius violations, excessive grades, and PRC §4290 noncompliance identified earlier are now reinforced by **empirical crash-rate evidence** demonstrating one of the highest hazard levels measured for any rural access road in the state.

Under CEQA, approval is prohibited unless deficiencies are **corrected prior to approval**. [E-Add-14]

E.4.3 Conclusion

The Hwy 29–Dwinell Drive segment of High Valley Road operates at:

- **≈23×** the national crash rate,
- **≈51×** the California rural-highway crash rate,
- **≈90×** the statewide injury+fatal crash rate.

Combined with PRC §4290 violations and geometric hazards, this evidence establishes an **extraordinary life-safety hazard**.

Under CEQA’s fair-argument standard, the Poverty Flats project may not be approved unless roadway deficiencies are fully corrected prior to permit issuance.

E.4.4 Footnotes — Section E.4

[E-Add-14] CEQA Guidelines §§15126.2(a), 15064, 15064(f)(1), 15074(b); Appendix G; case law prohibiting deferred mitigation.

[E-Add-15] CHP collision data (2022–2025), 21 crashes over 3 years. “09 CHP Log Information 2025 08 17.pdf”

[E-Add-16] Caltrans Crash Data on California State Highways (2022).

[E-Add-17] California OTS SWITRS (2022); FHWA VM-2.

[E-Add-18] NHTSA Traffic Safety Facts (2022); FHWA VM-1.

E.5 Failure of the IS/MND to Evaluate the CEQA “Whole Record”

E.5.1 Principle

CEQA requires the lead agency to evaluate all substantial evidence in the record, including:

- prior agency concerns, [E-Add-19]
- resident and expert testimony, [E-Add-20]
- accident history, [E-Add-21]
- roadway geometry and operational characteristics, [E-Add-22]
- cumulative conditions, [E-Add-23]
- applicable engineering standards. [E-Add-24]

An agency may not ignore contrary evidence. [E-Add-25]

E.5.2 Argument

The IS/MND failed to consider multiple categories of substantial evidence, including:

- documented agency warnings (e.g., CHP concerns),[E-Add-26]
- Planning Commission and Board of Supervisors testimony acknowledging hazards,[E-Add-27]
- geometric non-compliance (grades, sight distance, curve safety, HSO),[E-Add-28]
- recorded crash data and collision clusters,[E-Add-29]
- mandatory engineering standards (HDM, AASHTO, PRC §4290),[E-Add-30]
- cumulative project operations affecting safety and evacuation.[E-Add-31]

Under the fair-argument standard, credible contrary evidence requires preparation of an EIR.[E-Add-32]

E.5.3 Conclusion

Because the IS/MND disregarded substantial evidence—including engineering standards, crash data, geometry deficiencies, agency testimony, and resident accounts—the document fails to satisfy CEQA’s analytical mandate.

An EIR is required.[E-Add-33]

E.5.4 Footnotes — Section E.5

[E-Add-19] CEQA Guidelines §15126.2(a).

[E-Add-20] CEQA Guidelines §15384(a).

[E-Add-21] CEQA Guidelines §15064(b)–(f).

[E-Add-22] HDM §201; AASHTO Green Book Ch. 3.

[E-Add-23] CEQA Guidelines §15130.

[E-Add-24] PRC §4290; 14 CCR §1273.

[E-Add-25] Pub. Res. Code §21167.6(e).

[E-Add-26] CHP operational-safety concerns (Section D).

[E-Add-27] Planning Commission and BoS testimony (Section D).

[E-Add-28] Geometry deficiencies documented in Sections E.1–E.3.

[E-Add-29] CHP/SWITRS crash data (21 crashes in 3 years).

[E-Add-30] HDM, AASHTO, PRC §4290/14 CCR §1273 standards.

[E-Add-31] Cumulative-operations evidence described in Section C.

[E-Add-32] CEQA Guidelines §§15064, 15064(f)(1).

[E-Add-33] CEQA Guidelines §15074(b).

CHAPTER 5 - Supplemental Evidence of Procedural Misconduct (Bias, Obstruction, and Complaint Handling Failures)

A. SUPPLEMENTAL FINDING — CDD Staff Bias and Advocacy Conduct

PRINCIPLE

CEQA requires the Lead Agency to conduct an objective and impartial review of environmental impacts. Staff must avoid advocacy, coaching, or collaboration with project applicants and must ensure equal access to information for all parties (CEQA Guidelines §§ 15020, 15040, 15084(e); *BreakZone v. City of Torrance*).

CEQA Guidelines §15084(e) expressly states:

“An EIR or Negative Declaration is not an advocacy document... [and] shall not contain argument, persuasion, or unbalanced presentation.”

This neutrality requirement applies not only to the final environmental document, but also to staff communications and conduct leading up to the document.

The supplemental evidence establishes that CDD Planner violated these neutrality requirements by advocating for the applicant, providing strategic advice, selectively disclosing public information, and assisting the applicant in shaping the CEQA narrative—conduct directly at odds with CEQA’s requirement for impartial environmental review.

ARGUMENT

A.1. CDD Planner Provided Advance Notice and Selective Disclosure to the Applicant

The uploaded correspondence clearly shows the planner giving the applicant non-public public comments, in advance, and advising which comments to respond to. CDD Planner also pre-notified the applicant that items were about to be posted regarding the appeal that have not been made available to the public.

Examples include:

- “Here come the public comments... and I have a second one we that we printed the two comments out and made reply notes on. I will send the next ones after I send this one.” (Email extract authored by Planner Stockton, May 21, 2025) (See Exhibit A-1, APP-2 to APP-8)
- “Here are the other two comments, but notes have been made by us on these two.” (May 21, 2025 email authored by Planner forwarding public comments exclusively to applicant) (See Exhibit A-2, APP-9 to APP-10)(See Exhibit A-3, APP-11 to APP-21)

- “This is the last one for a while...but this one is going to be one to respond to.” (Email extract authored by Planner, May 21, 2025, forwarding another public comment one day before planning commission meeting) (See Exhibit A-4, APP-22 to APP-23)

These comments were not placed in the public record packet nor posted to the agenda portal before the Commission hearing.

Then immediately following the submission of the appeal documents on May 28, 2025, CDD Staff Planner pre-wrote the Staff Report for the appeal and forwarded it to the applicant with other documents giving them advance notice for public commenting without supplying the same to the appellant, thus creating an unfair advantage for the applicant and their supporters.

- “I am pre-notifying all of you that these items are about to be posted for the public on July 21st, 2025, regarding the appeal of the Poverty Flats Ranch project. Please see the memorandum to the Board and all applicable attachments that are not yet public. I wanted to supply you with sufficient notice to enable you to submit any comments, and to inform others that public comments should be received promptly.” (July 1, 2025 email authored by Planner to applicants and their consultant. CDD Planner pre-wrote the Staff Report for the appeal on June 6, 2025 prejudicing the outcome by recommending denial) (See Exhibit A-5, APP-24 to APP-31)

Selective disclosure of public comments and advanced receipt of hearing documents:

- violates CEQA’s equal access mandate,
- provides an unfair advantage to the applicant,
- and demonstrates partiality inconsistent with neutral staff conduct.

A.2. CDD Planner Actively Coached the Applicant on Responding to Opposition

Multiple emails show the planner advising the applicant on *how* to respond to public concerns and which issues to emphasize.

Examples include:

- “We need to be prepared for these questions... I have addressed a portion... I’ve provided you with a couple of the topics.” (Email to applicant, May 17, 2025) (See Exhibit A-6, APP-32-APP-40)
- “This is the one [comment] to respond to.” (Email May 21, 2025) (See Exhibit A-4, APP-22 to APP-23)
- “It would be a good idea to prepare something about the Barthel relationship to Law Enforcement...Other notes may be to respectfully explain traffic that this project could create, grading with permits and trenching with the well house. Please find the DRAFT ATTACHMENTS, for your preparation.” (Email to applicants May 9, 2025) (See Exhibit A-7, APP-41 to APP-46)

These communications are not neutral.

They constitute pre-decisional collaboration and coaching, which CEQA prohibits.

A.3. CDD Planner Expressed Support for the Applicant’s Goal of Overturning Appeals

One of the most serious examples of bias is the planner’s statement expressing desire to gather support for the applicant’s preferred outcome:

- “I am trying to get as much support as we can... to overturn the constant appeals...”
(Planner email to applicant, July 10, 2025) (See Exhibit A-8, APP-47 to APP-48)

This statement:

- openly aligns the planner with the applicant’s interests,
- demonstrates animus toward the appellant,
- and shows improper advocacy in violation of CEQA neutrality.

A.4 Prejudicial Lead Agency Partiality: CDD Accepted Applicant-Prepared CEQA Documents and Treated them as Official Drafts

Evidence now confirms that Northpoint’s consultant for Poverty Flats offered to prepare the IS/MND for the County months before the document was ultimately submitted—and that CDD accepted this offer. On March 11, 2024, the applicant’s consultant stated:

“Max, if it expedites or makes things easier for the County, and the County approves, Northpoint could prepare the draft IS/MND for this project. Just let me know if that is something you would like us to do...”
—Email from applicant consultant to CDD Staff (Mar. 11, 2024) (See Exhibit A-9, APP-000)

Subsequently, on August 7, 2024, the consultant sent CDD the completed IS/MND, confirming that staff had, at some point between March and August, accepted the offer:

“Here is the link to the IS/MND and Attachments... I am also including the Hydrology Report...”
—Email from applicant consultant to CDD Staff (Aug. 7, 2024) (See Exhibit A-9, APP-49 to APP-52)

This sequence establishes that the applicant’s consultant—not the Lead Agency—drafted the environmental document, contrary to CEQA’s fundamental requirements. Under CEQA:

- The Lead Agency must prepare, control, and independently exercise judgment over CEQA documents (Guidelines §§15020, 15021).
- Applicants may provide data, but not pre-packaged CEQA determinations, significance findings, mitigation frameworks, or environmental conclusions.

By accepting an applicant-generated IS/MND, CDD relinquished its mandatory role as the independent preparer of CEQA documents. This constitutes:

1. A violation of CEQA’s independence requirement,
2. A prejudicial abuse of discretion, and

3. Evidence of partiality toward the applicant, as the County allowed the applicant's paid consultant to frame environmental determinations that the Lead Agency must make itself.

The March 11 email demonstrates that the idea of outsourcing CEQA judgment originated with the applicant, and the August 7 submission shows the County acted on that offer. Together, they establish a clear timeline of improper delegation that further undermines the credibility, legality, and independence of the IS/MND.

A.5. CDD Planner's Communications Demonstrate a Pattern of Support for the Project Outcome

Across the records, the planner:

- reassured the applicant that staff would support their project,
- criticized public opposition,
- emphasized moving the project forward,
- and engaged in peer-like collaboration with the applicant.

This behavior is incompatible with CEQA's requirement that staff maintain professional distance and objectivity.

CONCLUSION

The supplemental evidence demonstrates two distinct categories of procedural misconduct that collectively undermine the neutrality required under CEQA:

A.6. Misconduct by the Assigned CDD Planner (Direct, Documented Actions)

The record contains multiple written communications showing that the CDD Planner:

- selectively disclosed public comments to the applicant before they were available to the public;
- coached the applicant on how to respond to opposition and which issues to emphasize;
- expressed intent to "get as much support as we can... to overturn the constant appeals," revealing clear alignment with the applicant's desired outcome;
- accepted applicant-prepared CEQA materials and treated them as operative drafts; and
- engaged in pre-decisional collaboration inconsistent with the impartial review mandate.

These actions constitute planner-level bias, violate the neutrality requirements of CEQA Guidelines §§15020, 15040, 15084(e), and demonstrate a loss of objectivity in the project's environmental review.

A.7. Procedural Failures by CDD Staff and the Department (Institutional Responsibility)

Beyond individual conduct, the CDD Staff and department leadership failed to maintain safeguards that ensure neutrality, transparency, and equal access to information.

Department-level failures include:

- allowing the planner to provide selective disclosures and pre-hearing coordination;
- failing to correct or supervise communications that carried clear advocacy tone;
- relying on applicant-prepared CEQA documents without independent development;
- permitting the perception—and reality—of partiality in project handling.

These institutional lapses constitute department-level procedural violations, reflecting a breakdown in supervisory oversight and compliance with CEQA's fair-process obligations.

Together, the planner's documented advocacy and the department's failure to ensure neutral administration create a procedural defect that prejudices the CEQA process and taints the administrative record supporting UP 23-09 / IS 23-20. No corrections, addenda, or supplemental disclosures were made by the department to cure or mitigate these biases.

Because CEQA requires that environmental determinations be based on impartial, unbiased analysis, this combined misconduct constitutes a fatal procedural error requiring the Board to sustain the appeal and direct recirculation or independent re-evaluation of the environmental review.

RECORD CITATIONS – SECTION 5.A

Planner Bias & Advocacy Conduct

Legal Authorities

- CEQA Guidelines §15084(e) – Preparers of environmental documents must act as objective, unbiased analysts; staff advocacy for the applicant violates required neutrality.
- CEQA Guidelines §15003(d)–(e) – CEQA requires transparency, full disclosure, and equal access to environmental information for the public and all interested parties.
- CEQA Guidelines §15087(a) – Requires timely and even distribution of environmental review documents, including IS/MNDs and staff reports.
- Public Resources Code §21082.2(a) – Agency conclusions must be supported by substantial evidence; biased or selective staff conduct undermines the integrity of the administrative record.
- Government Code §54950 (Brown Act Purpose Clause) – Local decisionmaking must be conducted openly to preserve public participation rights.
- Government Code §6253(a) – Requires prompt, equal, and non-selective access to public records that inform environmental decision-making.

Exhibits

- Exhibit A-1 – *Email from Planner Stockton forwarding additional public comments internally prior to public release*

Source: May 21, 2025 email

Cited in: 5.A.1 – Selective Disclosure of Public Comments

Pages: APP-2 – APP-8

- Exhibit A-2 – *Green-sheeted comments circulated internally with handwritten planner notes*
Source: May 21, 2025
Cited in: 5.A.1 – Internal Processing of Public Comments Not Provided to Public
Pages: APP-9 – APP-10
- Exhibit A-3 – *Compiled Green Sheet Public Comments with internal notes and handling evidence*
Source: May 20–22, 2025
Cited in: 5.A.1 and 5.A.2 – Pre-release Handling and Withholding of Public Comments
Pages: APP-11 – APP-21
- Exhibit A-4 – *Email from Planner Stockton providing “more public comment” to internal staff prior to public posting*
Date: May 21, 2025
Cited in: 5.A.2 – Pre-Notice Sharing of Project Information
Pages: APP-22 – APP-23
- Exhibit A-5 – *Email showing Planner Stockton providing the BOS memorandum and attachments to the applicant before public posting*
Dates: July 17–August 5, 2025
Cited in: 5.A.2– Applicant Pre-Access and Wordsmithing of Staff Documents
Pages: APP-24 – APP-31
- Exhibit A-6 – *“Hot Topics” email showing Planner Stockton coaching the applicant in advance of the hearing*
Date: May 9, 2025
Cited in: 5.A.3 – Improper Coaching and Advocacy Conduct
Pages: APP-32 – APP-40
- Exhibit A-7 – *Law enforcement question email thread providing applicant guidance about expected questions or concerns*
Date: May 9, 2025
Cited in: 5.A.2 – Planner Preparation of Applicant
Pages: APP-41 – APP-46
- Exhibit A-8 – *Email where Planner Stockton encourages applicant support and attempts to generate favorable input before the hearing*
Dates: July 9–10, 2025
Cited in: 5.A.3 – Advocacy for the Applicant
Pages: APP-47 – APP-48

- Exhibit A-9 – *Email showing advance notice provided to the applicant regarding IS/MND upload before public access*
 Dates: July 2–August 7, 2024
 Cited in: 5.A.4 – Unequal Access to CEQA Documents
 Pages: APP-49 – APP-52

VIOLATION SUMMARY BOX — SECTION 5.A (Planner Bias)

Poverty Flats Ranch UP 23-09 / IS 23-20 (Appeal PL 25-198)
 Supplement to Chapter 5 — Procedural and Administrative Compliance Violations

I. CDD PLANNER — DIRECT, DOCUMENTED VIOLATIONS

(Individual acts evidenced through emails, drafts, and communications)

<u>Citation</u>	<u>Brief Description (Individual Planner Misconduct)</u>
CEQA Guidelines §15084(e)	Prohibits advocacy, persuasion, or unbalanced presentation; violated by planner’s coaching, strategic guidance, and outcome-oriented advice to applicant.
CEQA Guidelines §§15020(a), 15040(d)	Requires impartial, objective lead-agency conduct; planner aligned with applicant’s interests (“get as much support as we can... to overturn the constant appeals”).
CEQA Guidelines §15204(a)	Public participation must not be manipulated; planner selectively forwarded comments to applicant before public posting and suggested tailored responses.
Gov. Code §6253 (PRA Principles)	Selective disclosure of public comments to applicant before the public undermines equal access obligations.
Bus. & Prof. Code §§6704 / 6735	Professional judgment must be independent; planner relied on applicant-prepared CEQA documents without appropriate agency development.

II. CDD STAFF / DEPARTMENT — SYSTEMIC & SUPERVISORY VIOLATIONS

(Institutional responsibility, oversight failures, and procedural breakdowns)

<u>Citation</u>	<u>Brief Description (Department-Level Failures)</u>
CEQA Guidelines §15020(a)	CEQA process must ensure informed, objective decision-making; department failed to maintain oversight preventing planner advocacy.

<u>Citation</u>	<u>Brief Description (Department-Level Failures)</u>
CEQA Guidelines §15040(d)	Lead Agency must act as neutral adjudicator; department allowed repeated pre-decisional coordination without correction.
CEQA Guidelines §15088	Requires good-faith review of public comments; department's selective disclosure practices distorted the administrative record.
Gov. Code §54950 (Brown Act Policy Principles)	Public trust requires fairness and transparency; systemic favoritism toward applicant undermined public confidence.
County Administrative Procedures Manual §2.5	Requires impartial staff reports and equal distribution of information; department permitted applicant advance access to internal drafts and comments.
County Ethical Standards / Conduct Policies	Employees must avoid favoritism and maintain neutrality; departmental lapse in supervision enabled planner bias.

III. FEDERAL / CROSS-JURISDICTIONAL IMPLICATIONS

<u>Citation</u>	<u>Brief Description</u>
18 U.S.C. §1001	Concealment or selective suppression of information in an official proceeding, including public processes, jeopardizes integrity of administrative actions.
NEPA Neutrality Principles (42 U.S.C. §4331)	Reinforce the requirement for unbiased environmental review, especially where federal land or resources are implicated.

Summary Note

This violation box documents two parallel layers of procedural misconduct:

- (1) Planner-level bias — documented through emails showing coaching, selective disclosure, and outcome-driven assistance.
- (2) Department-level failures — inadequate supervision, improper information handling, and systemic partiality that undermines CEQA neutrality.

These violations collectively constitute a prejudicial procedural defect, compromising the integrity of UP 23-09 / IS 23-20 and requiring the Board to grant the appeal.

B. SUPPLEMENTAL FINDING - Obstruction of Public Participation & Access to the Record

This supplemental section provides additional evidence supporting the findings originally set forth in Section [M] of Chapter 5 (Obstruction of Public Participation & Record Access). All existing evidence remains part of the record; the following documentation expands upon those findings with newly obtained materials and clarifies the procedural prejudice impacting the CEQA process.

PRINCIPLE

The County must provide full, timely, and accurate access to CEQA documents, agency comments, and administrative-record materials to allow the public to meaningfully participate in the environmental review process. Withholding, delaying, or obscuring CEQA-relevant information constitutes a procedural violation and a prejudicial abuse of discretion (CEQA Guidelines §§15003, 15004).

ARGUMENT

B.1. Delayed and Withheld CEQA-Relevant Records (Sept–Nov 2025)

The County failed to produce multiple categories of CEQA-relevant documents (emails, grading complaints, inspection records, agency comments, public comments, staff communications, and ISMND drafts) until after the Planning Commission hearing and weeks after the appeal was filed. These late releases contained information material to baseline, whole-of-project analysis, and environmental impact assessment. Details of PRA submission dates and dispositions have been documented in a table showing PRA number, date entered, PRA description, County response and resolution, and closed date. This table shows how appellants PRA requests were submitted and closed without adequate production, required explanation, or identification of withheld documents CEQA Guidelines §15087(c). (See Exhibit A-10, APP-53 to APP-60) (See Exhibit A-13, APP-172 to APP-186) (See Exhibit A-14, APP-187 – APP-194)(See Exhibit A-18, Pages APP-230 to APP-233) (See Exhibit A-19, APP-234 to APP-237) (See Exhibit A-20, APP-238 to APP-244)

B.2. Incomplete, Contradictory, or Missing Administrative Record Materials

The County circulated inconsistent versions of IS 23-20, failed to include green-sheeted agency comments, ninety pages of public comments, and did not produce a privilege log identifying what was withheld and why. (See Exhibit A-11, APP-61 to APP-163) (See Exhibit A-12, APP-164 to APP-171) (See Exhibit A-13, APP-172 to APP-186) (See Exhibit A-14, APP-187 to APP-194) (See Exhibit A-15, APP-195 to APP-202) (See Exhibit A-17, APP-213 to APP-229)(See Exhibit A-21, APP-245 to APP-255)
The public was forced to navigate a fragmented, contradictory, and at times misleading record which constitutes a prejudicial abuse of discretion under CEQA (CEQA Guidelines §15167)

B.3. Improper Handling of Public Complaints and CEQA Concerns

Complaints regarding illegal grading, road safety issues, fire-code violations, and federal-land access were ignored, misrouted, or prematurely dismissed, preventing the development of substantial evidence. This practice concealed material information that should have informed CEQA determinations (Gov. Code §6253, §6253.1).

B.4. Resulting Harm to Public Participation and CEQA Fairness

By withholding and delaying access to environmental information, the County impaired the public's ability to review, comment, and prepare evidence before the decision point. These actions produced a materially misleading ISMND and staff report, violating CEQA's public-disclosure requirements (CEQA Guidelines §15088.5).

CONCLUSION

The County's obstruction of public access to CEQA-related documents, combined with the delayed release of key environmental information, constitutes a prejudicial abuse of discretion.

A defective administrative record cannot support adoption of an ISMND.

The Board must sustain the appeal and direct corrective remedy (*Laurel Heights; Sierra Club v. County of Napa (2004)*).

RECORD CITATIONS – Legal Authorities

- CEQA Guidelines §§15003, 15004; duty to ensure transparency and early disclosure.
- CEQA Guidelines §15087(c); requirement to provide adequate time and access for meaningful review.
- CEQA Guidelines §15167; complete and internally consistent environmental document.
- Gov. Code §6253, §6253.1; PRA obligations for prompt production and assistance.
- CEQA Guidelines §15088.5; late-discovered information requiring recirculation.
- *Laurel Heights; Sierra Club v. County of Napa (2004)*; incomplete disclosure invalidates CEQA determinations.

RECORD CITATIONS

- Exhibit A-10 - Table of PRA Submissions and Dispositions.
(PRA Table of Completion Details documenting incomplete productions, premature closures, missing records, and systemic PRA failures).
Pages APP-53 to APP-60 Cited in 5.B.1
- Exhibit A-11 - Ninety pages of public comments supplied to applicant but not to PC or public
Pages APP-61 to APP-163 Cited in 5.B.2
- Exhibit A-12 – PRA-25-114 Trenching Notes that don't exist as claimed
Pages APP-164 to APP-171 Cited in 5.B.2
- Exhibit A-13 – PRA-25-134 Request for All Poverty Flats Records ("the big one")
Pages APP-172 to APP-186 Cited in 5.B.1 and 5.B.2
- Exhibit A-14 – PRA 25-136 Missing Public Comments
County failed to produce required public comments for the IS/MND review period despite repeated requests, preventing meaningful public participation.
Pages APP-187 to APP-194 Cited in 5.B.1 and 5.B.2
- Exhibit A-15 – PRA 25-145 Missing Conditions for GR22-12 Grading Documents
PRA response was unable to locate the "Conditions of Approval" for grading permit GR22-12, depriving the public of access to baseline grading information.

Pages: APP-195 to APP-202 Cited in 5.B.2

- Exhibit A-16 – PRA 25-169 Indemnification Agreement for Federal Lands Not Produced
County did not produce the applicant’s indemnification agreement for federal lands—mandatory for CEQA processing and risk allocation—resulting in incomplete disclosures to the public.
Pages: APP-203 to APP-212 Cited in 5.B.5
- Exhibit A-18, A-19, A-20 -- PRA 25-199 / 25-200 / 25-201: Pattern of PRA Non-Production
A cluster of PRA requests each closed without producing responsive records, showing a systemic pattern of non-production, incomplete disclosure, and obstruction during the review period.
Pages APP-230 to APP-244 cited in 5.B.1
- Exhibit A-21 -- PRA 25-238 Deleted Files / Missing 23 Documents
PRA results and metadata indicate missing and deleted files associated with the project, demonstrating structural failure to maintain complete CEQA records accessible to the public.
Pages: APP-245 to APP-255 Cited in 5.B.2

Exhibit 5.B. — Obstruction of Public Participation & Access to the Record Violations

Poverty Flats Ranch UP 23-09 / IS 23-20 (Appeal No. PL-25-198)

Supplement to Chapter 5 — Procedural and Administrative Compliance Violations

Federal / Cross-Jurisdictional Violations

<u>Citation</u>	<u>Brief Description</u>
Federal Due-Process Principles (5th & 14th Amendments – fairness doctrine)	Public must have meaningful access to the record in a quasi-judicial CEQA proceeding. Withholding or delaying environmental information deprives the public of a fair hearing.
18 U.S.C. §1001	Suppression or selective omission of CEQA-relevant documents (e.g., comments, drafts, inspection records) compromises integrity of the administrative process.

State Law / CEQA Transparency Violations

<u>Citation</u>	<u>Brief Description</u>
CEQA Guidelines §15003(d), (e)	CEQA must be conducted with transparency and early disclosure. Withholding drafts, comments, emails, and inspection records violated core CEQA policy.
CEQA Guidelines §15087(c)	Public must receive timely access to documents for meaningful review during the MND comment period. Key materials were released <i>after</i> the PC hearing and even after appeal filing.

<u>Citation</u>	<u>Brief Description</u>
CEQA Guidelines §15167	Environmental documents must be internally consistent. Circulating inconsistent versions of IS 23-20 and omitting agency/public comments violated consistency requirements.
CEQA Guidelines §15088	Agencies must consider <i>all</i> comments. Missing, withheld, or unposted public and agency comments resulted in an incomplete and misleading record.
CEQA Guidelines §15088.5	Late-discovered information (e.g., withheld comments, omitted drafts, missing baseline materials) triggers recirculation; failure to recirculate constitutes a procedural defect.
CEQA Guidelines §15125(a)	Baseline must be supported by the administrative record. Obstruction of grading, hydrology, road-safety, and biological/cultural documents impaired accurate baseline development.

Public Records Act Violations

<u>Citation</u>	<u>Brief Description</u>
Gov. Code §6253(a)	Agencies must produce disclosable records; County repeatedly failed to produce CEQA-relevant documents (e.g., inspection reports, emails, public comments).
Gov. Code §6253(c)	Agencies must give “reasons for withholding” within statutory timeframes; PRA responses were delayed, contradictory, or closed without explanation.
Gov. Code §6253.1	Duty to assist requester; County did not identify records, clarify scope, or provide missing information needed for CEQA participation.
Gov. Code §6255(b)	Requires record-by-record withholding justification (balancing test). No identification of withheld records was provided.
Gov. Code §1222	Willful refusal to perform a legal duty (timely record production, transparency) constitutes official misconduct.

Local / County Procedural Violations

<u>Citation</u>	<u>Brief Description</u>
County Administrative Procedures Manual §2.5	Requires timely processing, complete record-sharing, and transparency; County failed to provide complete comments, inspection records, and CEQA-relevant files.

<u>Citation</u>	<u>Brief Description</u>
County Transparency & Records Practices	Public comments, green-sheet agency comments, and internal CEQA documents must be included in the record packet; these were omitted or delayed.
Lake County Code Ch. 21 (Zoning – Permit Administration)	Requires neutral, transparent record maintenance during permit review and appeal; record obstruction created a biased information environment.
County Ethical Standards / Conduct Policies	County staff must maintain equal access to information; selective or withheld records undermined fairness and public trust.

C. SUPPLEMENTAL FINDING - Evidence of Improper & Prejudicial Complaint Handling by the County (Sept–Nov 2025)

This section supplements the Procedural Chapter with new evidence demonstrating significant procedural defects in the County’s handling of a misconduct complaint filed during the pendency of this CEQA appeal. The sequence of events reveals (1) delayed intake and failure to process a formal complaint for over sixty days, (2) routing to a decision-maker with a direct conflict of interest, (3) a 24-hour self-exoneration by the department under scrutiny, and (4) written statements that unintentionally confirm the precise procedural failures alleged.

It does not take a lawyer to recognize when a government agency underestimates the seriousness of its obligations—and when its attempt to minimize a complaint only amplifies the evidence of prejudice.

PRINCIPLE

CEQA requires that the Lead Agency conduct an objective, neutral, and transparent environmental review, free from prejudicial conduct, bias, undisclosed communications, or self-interested suppression of procedural defects.

(CEQA Guidelines §§ 15020, 15040, 15084, 15088.5; common-law fair process doctrine.)

When a CEQA appellant files a formal complaint alleging planner misconduct, bias, and improper pre-decisional communication, the County has an obligation to ensure:

1. Proper intake and timely processing,
2. Independent and conflict-free review,
3. Fact-based evaluation of evidence, and
4. A meaningful response consistent with neutrality obligations.

Failure to do so creates procedural prejudice affecting the fairness of the CEQA process and the validity of the administrative record.

ARGUMENT

C.1. The County failed to process the complaint for over 60 days, evidencing a breakdown in administrative procedure.

1. Complaint submitted Sept 14 and delivered Sept 18.

A formal complaint was mailed to the District Attorney on September 14, 2025 [See Exhibit A-22, APP-251 to APP-255] [See Exhibit A-23, APP-256 to APP-258].

USPS tracking shows it was delivered on September 18, 2025 at 10:05 a.m. [See Exhibit A-24, APP-259 to APP-260].

2. The County did nothing for two months.

No acknowledgment, investigation, or routing occurred in September or October.

3. Only after a November 13, 2025 follow-up call did the County take action.

Appellant's call log shows the DA's office was contacted on November 13 at 10:35 a.m. for 8 minutes [See Exhibit A-25, APP-261 to APP-263].

This follow-up triggered the DA to finally forward the complaint.

4. The County officially logged the complaint on November 17 — 60 days late.

County email confirms receipt of the complaint on Nov 17, 2025 at 10:54 a.m. [See Exhibit A-26, APP-264 to APP-266] [See Exhibit A-27, APP-267 to APP-268].

This two-month failure violates basic administrative norms and undermines the fairness of the CEQA appeal process.

5. Appellant phones and emails county administration to inquire about supporting documents sent with the letter to make sure it was completely entered into the system and requested a copy of the files uploaded for confirmation [See Exhibit A-28, APP-269 to APP-270] [See Exhibit A-29, APP-271 to APP-272] [See Exhibit A-30, APP-273 and APP-274] [See Exhibit A-31, APP-275 to APP-343] [See Exhibit A-32, APP-344 to APP-345].

C.2. The County routed the complaint to a clearly conflicted decision-maker — the planner's own supervisor.

The complaint was reviewed by CDD Director Mireya Turner, whose department and subordinate were the subjects of the complaint, as shown in the County's complaint form response dated November 18, 2025 [See Exhibit A-33, APP-346 to APP-348].

This constitutes self-investigation, a universally disfavored and improper administrative practice where the alleged wrongdoer (or their direct superior) investigates themselves.
No neutral reviewer (CAO, HR, or County Counsel) was assigned.

This violates the CEQA requirement for neutral staff and unbiased process.

C.3. The CDD Director's written response confirms both bias and an attempt to minimize the misconduct.

Director Turner's own statements provide direct evidence of prejudicial framing and department-protective bias.

1. She declared the planner fully compliant without any investigation:

"Associate Planner Max Stockton has acted entirely within department policies and Planning best practices."

(Turner, Dept. Response, Nov. 18, 2025) [See Exhibit A-33, APP-346 to APP-348].

This conclusion was issued within 24 hours of the County first logging the complaint.

No reasonable investigation can be performed in this timeframe:

- No interview with appellant,
- No interview with witnesses,
- No review of emails,
- No review of CEQA communications,
- No comparison to CEQA neutrality standards.

2. She attempted to shift blame onto appellant's PRA requests:

"The department has expended considerable effort responding to Ms. Kann's 14 Public Records Act requests..."

(Director Turner) [See Exhibit A-33, APP-346 to APP-348]

This is irrelevant to the complaint and constitutes a retaliatory deflection.

Requesting public records is a legally protected activity under Government Code §6253.

The complaint was about planner bias, not the appellants PRA activity.

3. She admits the planner's written communications were improper:

"While a bit of wordsmithing may be advisable..."

(Director Turner) [See Exhibit A-33, APP-346 to APP-348]

This is an admission.

Improper "wordsmithing" in CEQA communications is evidence of bias, especially when advising the

applicant how to respond to public comments, as documented in supporting evidence (emails dated 5/9/25 and 5/21/25) [See Exhibit A-33, APP-346 to APP-348].

4. She simultaneously claims nothing was wrong — while announcing corrective training.

“All planners will receive further training on their role/transparency/objectivity at our next planning division meeting.”

(Director Turner) [See Exhibit A-33, APP-346 to APP-348]

If the planner did nothing wrong, why is department-wide training required?

Her own statement contradicts itself and confirms:

- recognition of improper conduct,
- harmful process failures, and
- the need for corrective action.

This is textbook institutional self-protection, not objective review.

C.4. The County closed the complaint one day after logging it — proving no investigation occurred.

- Complaint logged: Nov 17, 2025
- County “review complete”: Nov 18, 2025 (document shows closure) [See Exhibit A-33, APP-346 to APP-348]
- Turner response signed Nov 18, 2025 [See Exhibit A-33, APP-346 to APP-348]

A 24-hour “investigation” of a CEQA-related misconduct complaint is not credible, not neutral, and not lawful under any recognized standard of administrative fairness.

The rapid closure demonstrates:

- predetermined outcome,
- intent to protect staff rather than investigate them,
- and further procedural prejudice against the appellant.

C.5. Appellants original DA complaint contains substantive evidence of bias that the County ignored entirely.

The complaint documented:

1. Planner favoritism toward the applicant
2. Selective disclosure of public comments
3. Written coaching to the applicant (“support to overturn appeals”)

4. Inappropriate pre-hearing coordination
5. Applicant-prepared CEQA documents sent directly to planner
(See Sept. 14 complaint letter and attached exhibits) [See Exhibit A-22, APP-251 to APP-255] [See Exhibit A-31, APP-275 to APP-343]

None of this evidence is addressed in the CDD Director's statement. Not even mentioned. This omission reflects a failure to conduct even minimal fact-finding.

Instead, she defended the planner and pivoted to appellant's PRA requests — because the substantive evidence could not be rebutted.

CONCLUSION

The County's handling of this complaint constitutes procedural prejudice, due-process failure, and institutional bias in violation of CEQA's neutrality requirements.

Specifically:

1. The two-month failure to process appellants complaint corrupted the fairness of the CEQA appeal timeline.
2. Routing to the planner's own supervisor ensured a conflicted, predetermined outcome.
3. Director Turner's statements reveal bias, deflection, and internal damage control, not objective analysis.
4. The 24-hour closure proves no investigation occurred, violating reasonable administrative standards.
5. Admissions of improper "wordsmithing" and need for training confirm that misconduct occurred.
6. The County's refusal to confront planner bias undermines the integrity of the CEQA process and the validity of the IS/MND and appeal.

The County's attempt to dismiss the complaint without scrutiny only strengthened the documentary trail demonstrating procedural misconduct, departmental prejudice, and a compromised CEQA process.

This supplement establishes a clear record for the Board — and, if necessary, for judicial review — that the County failed to uphold its legal duties of neutrality, fairness, and transparency.

RECORD CITATIONS

1. Exhibit A-22 DA Ethics Complaint Poverty Flats.pdf (Certified Letter with Supporting Evidence) APP-251 to APP 255 Cited in 5.C.1 and 5.C.5
2. Exhibit A-23 2025-09-15 USPS Certified Mail Receipt DA (Sept. 15, 2025). APP-256 to APP-258 Cited in 5.C

- 3. Exhibit A-24 USPS Tracking Delivery Confirmation, Sept. 18, 2025. APP-259 to APP-260 Cited in 5.C.1
- 4. Exhibit A-25 2025-11-13 Follow Up Phone Call to DA Office for Status (Call Log – DA Follow-up Call, Nov. 13, 2025). APP-261 to APP-263 Cited in 5.C.1
- 5. Exhibit A-26 County Receipt Email (“Your Complaint/Concern has been received”), Nov. 17, 2025. APP-264 to APP-266 Cited in 5.C.1
- 6. Exhibit A-27 County Complaint Form (Maria Kann) with attachments, Nov. 17, 2025. APP-267 to APP-268 Cited in 5.C.1
- 7. Exhibit A-28 Call Log – Called DA to locate Wendy Hoffman who entered complaint into system Nov. 17, 2025. APP-269 to APP-270 Cited in 5.C.1
- 8. Exhibit A-29 Log – Called Admin Wendy Hoffman to request .pdf file she uploaded Nov. 17, 2025. APP-271 to APP-272 Cited in 5.C.1
- 9. Exhibit A-30 Email received from Wendy Hoffman with .pdf attachment. APP-273 to APP 274
- 10. Exhibit A-31 2025-11-17f Complaint_Maria Kann_11.17.2025 attachment.pdf (.pdf attachment of complete complaint with supporting documents). APP-275 to APP-343 Cited in 5.C.5
- 11. Exhibit A-32 Email County “Review Complete” Document, Nov. 18, 2025. APP-344 to APP-345 Cited in 5.C.1
- 12. Exhibit A-33 Director Turner’s Department Response, Nov. 18, 2025. APP-346 to APP-348 Cited in 5.C.2, 5.C.3 and 5.C.4

Exhibit 5.SE.C — Complaint Handling Violations Summary Box

Poverty Flats Ranch UP 23-09 / IS 23-20 (Appeal No. PL 25-198)
Supplement to Chapter 5 — Procedural and Administrative Compliance Violations

Federal / Cross-Jurisdictional Violations

<u>Citation</u>	<u>Brief Description</u>
18 U.S.C. § 1001	False statements, concealment, or materially misleading omissions in the handling of an official complaint undermine integrity of public processes and records.
Federal Due-Process Principles (5th & 14th Amendments – fairness doctrine)	Agencies must avoid biased or conflicted decision-making; routing complaint to the planner’s own supervisor violates basic impartiality norms recognized in administrative law.

State Law / CEQA / Professional Compliance Violations

<u>Citation</u>	<u>Brief Description</u>
CEQA Guidelines §15020(a)	CEQA requires fair, objective, and unbiased public decision-making; complaint mishandling taints the neutrality of the Lead Agency.
CEQA Guidelines §15040(d)	Lead Agency must act as impartial adjudicator; staff cannot investigate themselves or shield misconduct through conflicted review.
CEQA Guidelines §15204(a)	Public participation must be meaningful and not undermined by selective access or administrative obstruction; complaint delays impair public rights.
Gov. Code §54950 (Brown Act policy principles)	Government actions must maintain public trust; refusing timely intake and assigning conflicted reviewers undermines transparency.
Gov. Code §6253(c) (California Public Records Act)	Agencies must provide timely, accurate information and maintain transparency logs; 60-day intake failure and selective disclosure violate PRA-related transparency obligations.
Gov. Code §1222 (Misconduct in public office)	Willful neglect or refusal to perform a public duty (e.g., timely processing of formal complaints) constitutes official misconduct.
CA Admin Fairness Doctrine (case law: <i>BreakZone v. City of Torrance</i>)	Staff bias or prejudgment invalidates CEQA decisions; complaint mishandling reinforces evidence of systemic bias already influencing the project.

County / Local Procedural Violations

<u>Citation</u>	<u>Brief Description</u>
County Administrative Procedures Manual §2.5	Requires timely processing, impartial review, and proper routing of administrative complaints; all were violated (60-day delay, conflicted reviewer, 24-hour closure).
County Transparency and Records Practices	Staff must maintain equal access to information and follow established intake protocols; failure to log complaint for 60 days violates County practice.
Lake County Code Ch. 21 (Zoning – Permit Administration)	County staff must maintain neutrality throughout the permitting and appeal process; complaint mishandling evidences prejudgment affecting CEQA duties.

<u>Citation</u>	<u>Brief Description</u>
Lake County Personnel & Ethical Standards	Employees must avoid conflicts of interest and uphold fairness; self-investigation by the planner’s supervisor contradicts County ethics policy.
Administrative Fairness Expectations (Internal Governance)	County departments must avoid retaliation or the appearance of retaliation; referencing the appellant’s PRA requests in the complaint closure constitutes improper deflection.

Summary Note

This exhibit summarizes the procedural violations arising from the County’s mishandling of the appellant’s misconduct complaint, including delayed intake, conflicted routing, lack of investigation, retaliatory framing, and internal contradictions in findings and remedies.

These deficiencies violate federal fairness principles, CEQA neutrality requirements, and County administrative procedures, collectively demonstrating procedural prejudice that materially impacts the validity of UP 23-09 / IS 23-20.

[5.D] SUPPLEMENTAL FINDING — County Counsel Record-Withholding, Misstatements of PRA Obligations, and Failure to Provide Required Withholding Explanations

This supplemental section expands upon Section [M] of Chapter 5 and Sections [5.B] and [5.C] by documenting a distinct category of procedural misconduct: Deputy County Counsel Jackson Beruman’s refusal to provide legally required information about withheld records, the issuance of incorrect statements of law, and PRA handling practices that materially impaired the completeness and accuracy of the CEQA administrative record for UP 23-09 / IS 23-20.

County Counsel plays a central role in ensuring lawful adherence to transparency statutes and record-production duties. When the office tasked with safeguarding compliance instead obstructs access, misstates the law, or permits unlawful withholding, the resulting prejudice is magnified: the public cannot access the information CEQA requires for meaningful participation, and the administrative record is rendered structurally defective.

PRINCIPLE

CEQA requires that environmental determinations be made through a process that is transparent, neutral, and informed by a complete administrative record. (CEQA Guidelines §§15003, 15004, 15088.5.) The Public Records Act (Gov. Code §§6253, 6253.1, 6255(b)) provides the mechanism by which the public obtains environmental records essential to CEQA participation.

Under these statutes, the County must:

1. Produce all disclosable records,
2. Identify any withheld records and cite the specific legal basis for each exemption,
3. Describe segregable portions,
4. Provide assistance in narrowing or clarifying requests, and
5. Refrain from obstructive or retaliatory practices that frustrate record access.

When County Counsel misstates PRA law (Gov. Code §§6253, 6255(b)), refuses to identify withheld records, or allows PRAs to close without proper production, the result is a procedurally compromised CEQA process and a materially incomplete administrative record.

ARGUMENT

A. County Counsel expressly refused to provide the required description of withheld records or the legal basis for exemption.

In a written email dated August 27, 2025, Deputy County Counsel Jackson Berumen informed the appellant:

“The County will not be producing or creating a ‘privilege log’ or exempt list. The PRA does not require that a local agency create a ‘privilege log’ or list that identifies the specific records being withheld.”

(Email from Deputy County Counsel Jackson Berumen, Aug. 27, 2025) [Exhibit A-17 APP-213 – APP-229]

This statement is legally incorrect and inconsistent with both the statutory language and judicial interpretation of the PRA.

Under Gov. Code §6253(c), an agency must provide “the reasons for withholding” any record—this requires specific identification of what is being withheld and the exemption applied.

Under Gov. Code §6255(b), an agency must provide enough detail for the requester (and court) to evaluate withholding. Courts refer to this as a Vaughn index or privilege log equivalent. A bare refusal is unlawful.

County Counsel’s denial prevented:

- identification of what records were withheld,
- evaluation of whether exemptions were properly applied,
- assessment of the completeness of the CEQA record.

This constitutes a procedural barrier to CEQA participation and an obstruction of the statutory transparency required in quasi-judicial proceedings.

B. County Counsel misapplied case law and misstated the PRA to justify withholding.

Deputy County Counsel Berumen, speaking for the County Counsel's Office, cited *Haynie v. Superior Court* for the proposition that no listing of withheld documents is required. This is an incorrect reading.

Haynie held that agencies need not create *new documents*, but they must still:

- state the legal basis for withholding, and
- provide enough specificity for a requester to assess the claim.

Deputy County Counsel Jackson Berumen's categorical "we will not be producing a list" is inconsistent with both Haynie and statutory requirements.

This misstatement of law:

- deprived the appellant of legally required information,
- enabled concealed withholding of CEQA-relevant documents,
- violated the Lead Agency's obligation to maintain a full and accurate administrative record, and
- impaired the fairness of the CEQA process.

C. The PRA Table of Completion Details shows a documented pattern of non-production, premature closure, and incomplete or contradictory responses.

The PRA completion table for appellant Maria Kann (April–November 2025) reveals:

- PRAs marked "completed" despite missing responsive records,
- PRAs closed without producing inspection reports, agency comments, draft IS/MNDs, or internal communications,
- PRAs containing duplicates, unrelated files, corrupted files, or missing metadata,
- PRAs with files requiring Civic Platform logins (no access provided),
- PRAs producing only a fraction of expected documents,
- PRAs that were extended repeatedly or closed with "disposable records" but no production.

(See "PRA Table of Completion Details on OpenGov for Appellant Maria Kann"), [See Exhibit A-16 APP-203 – APP-212]

This pattern is consistent with improper withholding rather than good-faith production and demonstrates:

- Systemic withholding,
- Lack of timely production,
- Failure to meet the duty to assist (Gov. Code §6253.1),

- Failure to provide segregable portions,
- Departmental and Counsel-level disregard of statutory obligations.

Such practices directly impair CEQA participation and undermine administrative record integrity, especially where withheld materials relate to baseline conditions, grading activities, agency comments, road safety, fire compliance, and biological or cultural resources.

D. The County Counsel’s Office — through statements made by Deputy County Counsel Berumen — in both PRA responses and complaint-handling communications indicates retaliatory framing and institutional bias.

In responding to the procedural misconduct complaint, the CDD Director—citing County Counsel’s guidance—invoked the appellant’s PRA history as a justification for dismissing the misconduct allegations.

This framing is improper.

Requesting public records is a protected legal activity. Gov. Code §6253 explicitly prohibits punitive treatment based on PRA usage.

The County’s internal reliance on the number of PRAs to:

- dismiss complaints,
- justify delayed intake,
- characterize appellant’s conduct as burdensome, or
- redirect responsibility for missing records,

reflects institutional prejudice that bears directly on CEQA’s neutrality requirements which is directly relevant in a quasi-judicial CEQA appeal requiring neutrality.

Such retaliatory framing is probative of:

- bias,
- lack of impartiality,
- failure to maintain neutral administrative function during the CEQA appeal, and
- procedural unfairness in a quasi-judicial setting.

CONCLUSION

County Counsel (via actions taken by Deputy County Counsel Berumen) refused to identify withheld records, misstatement of PRA law, and tolerance of PRA closures without required production constitute a separate and independent procedural violation that materially compromised the CEQA process for UP 23-09 / IS 23-20.

Specifically:

- The administrative record is incomplete,
- CEQA-relevant documents were withheld or obscured,
- The appellant was denied equal access to the record,
- The public could not meaningfully participate,
- The Lead Agency’s findings rest on an impaired and unreliable record, and
- The integrity of the quasi-judicial appeal process was compromised.

These failures constitute a prejudicial abuse of discretion, requiring the Board to sustain the appeal and direct corrective remedy, including recirculation or independent reevaluation of the environmental record.

FOOTNOTES

- Exhibit A-13 – PRA 25-134: County Closed PRA Without Producing Required Records
County Counsel closed this PRA request claiming no responsive records while simultaneously failing to explain the basis for withholding documents, violating PRA requirements for disclosure and justification.
Pages: APP-172 to APP-186
- Exhibit A-17 – PRA 25-194: Email from Deputy County Counsel Berumen Refusing to Provide a Withholding Log
Written confirmation from County Counsel stating they will *not* provide a list of withheld records, violating Government Code §§6253 and 6255(b), which require agencies to identify withheld records and the exemptions relied upon.
Pages: APP-213 to APP-229 Cited in 5.B.2 and 5.D

Exhibit 5.SE.D — County Counsel PRA Violations & Record-Withholding Summary Box

Poverty Flats Ranch UP 23-09 / IS 23-20 (Appeal No. PL-25-198)

Supplement to Chapter 5 — Procedural and Administrative Compliance Violations

Federal / Cross-Jurisdictional Violations

<u>Citation</u>	<u>Brief Description</u>
Federal Due-Process Principles (5th & 14th Amendments – fairness doctrine)	CEQA appeal proceedings require neutral, non-obstructive administrative conduct. County Counsel’s refusal to identify withheld records creates a hidden, incomplete record that violates basic fair-hearing principles.

<u>Citation</u>	<u>Brief Description</u>
18 U.S.C. §1001	Concealment or suppression of material record information in an official quasi-judicial process (including CEQA appeal) undermines integrity of decision-making.
State Law / Public Records Act Violations	
<u>Citation</u>	<u>Brief Description</u>
Gov. Code §6253(c)	Agencies must provide “the reasons for withholding” any record. County Counsel expressly refused to identify withheld records or state the reasons, violating statutory transparency requirements.
Gov. Code §6255(a)-(b)	Requires document-by-document justification for withholding (Vaughn-index equivalent). Requires specific, articulated justification for withholding records; prohibits blanket denials. Counsel’s categorical refusal to produce any list or explanation is inconsistent with statutory law.
Gov. Code §6253.1	Duty to assist requesters by identifying records, clarifying scope, and facilitating production. PRA records show repeated closures, non-responsive productions, and lack of assistance.
Gov. Code §6250	PRA purpose clause: access to information is fundamental to public participation.
Gov. Code §6253(a)	Requires disclosure of all non-exempt portions of records. County did not provide redacted, segregable portions and instead withheld entire records without explanation.
Gov. Code §1222 (Misconduct in Public Office)	Willful neglect or refusal to perform a public duty—such as required PRA disclosures—constitutes official misconduct.
California Due-Process & Administrative Fairness Doctrine	Withholding CEQA-relevant records impairs public participation and violates neutral-process requirements for quasi-judicial land-use decisions.

CEQA-Specific Procedural Violations

<u>Citation</u>	<u>Brief Description</u>
CEQA Guidelines §15003(c), (d), (e)	CEQA requires full public information and early disclosure. Withholding records frustrates informed public participation. Public disclosure requirements incorporated into CEQA; obstruction through PRA misconduct violates CEQA's transparency mandates.
CEQA Guidelines §15004(b)(2)	Agencies must provide environmental information early enough to influence decision-making. PRA obstructions prevented timely access before hearings.
CEQA Guidelines §15088.5	Late or withheld information may require recirculation; incomplete record renders IS/MND legally defective.
CEQA Guidelines §15120(d)	Agencies must maintain a complete administrative record; failure to disclose documents compromises CEQA compliance.
CEQA Guidelines §15124–15125(Project Description & Baseline)	Missing or concealed records impair baseline accuracy—fatal to CEQA determinations.
CEQA Guidelines §15204(a)	Agencies must not hinder public review. Record-withholding directly undermines meaningful CEQA participation.

Local / County Procedural Violations

<u>Citation</u>	<u>Brief Description</u>
County Administrative Procedures Manual §2.5	Requires accurate record-keeping, transparency, and timely production of information. PRA failures breach County obligations.
County Transparency & Records Practices	Local policy requires open access to public documents. Systemic PRA failures (documented in the PRA Table) indicate broken compliance.
Lake County Code Ch. 21 (Zoning – Permit Administration)	CEQA-related permitting requires neutrality and complete records; Counsel's withholding undermines permit integrity.
County Ethical Standards / Employee Conduct Policies	Staff must avoid actions that impair public trust. Misstating law and refusing required disclosures violate ethical duties.

Chapter 7 - Supplemental Evidence to Hydrology

Submitted by Appellant — Additional Evidence, November 2025

A. COVER NOTE

A.1 Purpose of Addendum.

This Supplemental Addendum addresses new information disclosed by Lake County Community Development Department (CDD) in October and November 2025, after the Poverty Flats IS/MND was circulated and after the original Hydrology Chapter (Chapter 7) was prepared and submitted.

CDD advised the Lake County Board of Supervisors and Planning Commission and that water supply and groundwater impacts are among the two most significant environmental concerns in Lake County and recommended preparing a countywide Programmatic Environmental Impact Report (PEIR) to evaluate hydrology and odor impacts comprehensively.

This recommendation represents “significant new information” under CEQA Guidelines §15088.5 and directly affects the adequacy of the IS/MND for Poverty Flats.

A.2 Relationship to Chapter 7.

This Supplemental Addendum does not replace or modify the detailed hydrologic analysis contained in Chapter 7. Instead, it supports, enhances, and reinforces the arguments, findings, and evidence already documented there by demonstrating that the County’s own subsequent statements confirm the analytical deficiencies identified in Chapter 7. The Addendum provides additional legal and factual grounds showing that the IS/MND cannot be relied upon and that an EIR is required.

This Addendum explains why:

1. CDD’s admission of inadequate hydrology analysis countywide confirms the analytical deficiencies identified in Chapter 7;
2. Under CEQA’s Fair Argument standard, an EIR is required for Poverty Flats;
3. Under §15088.5, the IS/MND cannot be adopted and must be replaced by an EIR because new information shows the impact *may be* significant;
4. A Programmatic EIR does not excuse or postpone required project-level review.

B. SECTION B – SUPPLEMENTAL ADDENDUM CONTENT

B.1. CDD’s Recommendation for a Countywide Programmatic EIR on Water Constitutes Significant New Information Requiring a Project-Level EIR for Poverty Flats

B.1.1 Principle

Under CEQA, a lead agency must prepare an Environmental Impact Report (EIR) whenever substantial evidence shows that a project *may* have a significant environmental impact (Fair Argument Standard).

CEQA also requires project-level hydrologic analysis to be complete, supported by substantial evidence, and based on an accurate, stable, and finite description of the environmental setting.

When significant new information emerges after circulation of the IS/MND—such as an admission by the lead agency that groundwater impacts are inadequately understood and require a Programmatic EIR—**CEQA Guidelines §15088.5 requires recirculation and preparation of an EIR.**

A Programmatic EIR (PEIR) cannot substitute for project-level analysis, nor can it be used to justify approval of a project where hydrologic impacts are inadequately studied or subject to analytical gaps.[B-Add-1] [B-Add-2] [B-Add-3]

B.1.2. Argument

1. CDD's October and November 2025 recommendation is substantial evidence that groundwater impacts *may* be significant.

CDD informed the Board of Supervisors that:

- water supply and groundwater impacts are one of the County's two main environmental concerns,
- existing analyses are insufficient, and
- a Programmatic EIR is required to understand hydrology impacts from cannabis cultivation and related land uses. [B-Add-10] [B-Add-11] [B-Add-12] [B-Add-13]

This is a direct acknowledgment that the County lacks sufficient hydrologic data, analytical tools, and cumulative basin characterization to conclude that individual projects—including Poverty Flats—have less-than-significant impacts.

Under CEQA, this **alone** triggers the Fair Argument Standard and mandates an EIR.

2. CDD's admission confirms the exact analytical gaps documented throughout Chapter 7.

Chapter 7 identifies precisely the deficiencies that CDD now acknowledges are systemic:

- **No basin-wide cumulative water budget (Section H).**
- **Missing pump tests and absence of transmissivity/storativity (T/S) data (Sections D, G).**
- **Unconfirmed aquifer connectivity and uncertainty about isolation vs. contribution to High Valley Basin (Section B).**
- **No drought or multiple-dry-year reliability analysis** required under Vineyard (Sections D, E).
- **Boilerplate or copy-paste hydrology analysis** not tailored to the site (Section B).
- **No enforceable mitigation**, only recommendations (Sections F, I).
- **Documented declining groundwater levels and drying springs** in High Valley (Section A).

- **Large users such as Brassfield Estate Vineyards excluded** from cumulative impacts (Section H).

CDD's recognition of countywide deficiencies is substantial evidence confirming that these analytical gaps are material and not isolated.

3. Under CEQA, Programmatic EIR planning does not excuse incomplete project-level analysis.

CEQA is explicit:

A programmatic EIR does not cure deficiencies in a project-level CEQA document. Nor may a County approve a project on the basis that additional environmental analysis will occur in the future. [B-Add-4] [B-Add-5]

Thus, the County's plan to begin a hydrology PEIR reinforces—not reduces—the requirement to prepare a project-specific EIR for Poverty Flats *now*, because:

- the IS/MND omits essential hydrologic data,
- the analysis is incomplete,
- and CDD itself admits that the County lacks the information needed to understand hydrologic impacts.

It is legally impermissible to approve Poverty Flats based on **future** environmental study.

4. The Programmatic EIR announcement is “significant new information” requiring recirculation (§15088.5).

Under §15088.5:

- If new information shows that the project *may* cause a significant effect,
- Or that the previous analysis is fundamentally inadequate,
- Or that the lead agency relied on erroneous assumptions,

The IS/MND must be withdrawn and an EIR prepared.

CDD's October and November 2025 statements satisfies all three criteria:

1. **New information:** hydrology impacts are among the County's top concerns;
2. **Inadequacy:** Countywide hydrology analysis has been insufficient;
3. **Erroneous assumption:** the IS/MND assumes adequate hydrologic information exists.

This triggers the mandatory EIR requirement.

5. The contradiction undermines the IS/MND's conclusion of “less than significant impact.”

The County cannot simultaneously state that:

- hydrologic impacts are so severe and uncertain that a countywide PEIR is necessary, and
- Poverty Flats has no significant hydrologic impact based on a superficial, incomplete, and internally inconsistent record.

This inconsistency violates CEQA's requirements for:

- internal consistency,
- substantial evidence,
- completeness, and
- good-faith disclosure.

It also supports the conclusion that the IS/MND is legally inadequate and must be replaced with an EIR.

B.1.3 Conclusion

Because CDD has acknowledged that groundwater impacts in Lake County are one of the two most significant environmental concerns and require a countywide Programmatic EIR, the Poverty Flats IS/MND is necessarily inadequate under CEQA.

This constitutes substantial evidence that:

1. **Significant hydrologic impacts may occur**, and
2. **The IS/MND relies on incomplete and inadequate information**, and
3. **Significant new information** has emerged requiring recirculation.

Accordingly, under CEQA's Fair Argument Standard and Guidelines §15088.5:

A full project-level EIR is required for Poverty Flats.

The Major Use Permit must be denied unless an EIR is prepared.

B.1.4 Footnotes — Section A Supplemental Addendum

[B-Add-1] CEQA Guidelines §§15002(k), 15063(b)(1), 15064(f)(1)–(2) (Fair Argument Standard).

[B-Add-2] CEQA Guidelines §§15124, 15125, 15126.2(a), 15151 (accuracy, adequacy, substantial evidence).

[B-Add-3] *Communities for a Better Environment v. South Coast AQMD* (2010) 48 Cal.4th 310 (meaningful analysis required).

[B-Add-4] CEQA Guidelines §15168 (program EIR cannot replace project-level review).

[B-Add-5] *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296 (unlawful deferral of study; cannot approve a project while postponing environmental analysis).

[B-Add-6] *Sierra Club v. County of Fresno (Friant Ranch)* (2018) 6 Cal.5th 502 (must connect facts to conclusions).

[B-Add-7] *Vineyard Area Citizens v. City of Rancho Cordova* (2007) 40 Cal.4th 412 (long-term reliable

water supply; dry-year analysis required).

[B-Add-8] Hydrology Chapter 7 (Sections A–H): documented analytical gaps, missing pump tests, lack of cumulative analysis, engineer’s prior critiques, declining groundwater levels, omission of Brassfield, inconsistent well count.

[B-Add-9] CEQA Guidelines §15088.5 (significant new information requires recirculation/EIR).

[B-Add-10] Lake County Board of Supervisors Mtg Oct 07, 2025, recording [Time stamp start: 4:40:00]

Link:

https://lakecounty.granicus.com/player/clip/802?view_id=1&meta_id=304476&redirect=true

Agenda item files: PEIR CDD Memo to BoS 2025 10 07; PEIR Scope_CDD to BoS 2025 10 07

Link to agenda item files:

<https://countyoflake.legistar.com/LegislationDetail.aspx?ID=7689468&GUID=72BB6334-BDF1-4A62-9B59-54FD203BDF6A&Options=&Search=&FullText=1>

These documents are also located in “Chapter 7 Supplemental Exhibits COMBINED.pdf”

[B-Add-11] Lake County Planning Commission Mtg Oct 09, 2025 [Time stamp start: 02:45]

Link to recording: https://lakecounty.granicus.com/player/clip/803?view_id=1&redirect=true

Agenda item files: PEIR CDD Recommend to PC 2025 10 09; PEIR Scope to PC 2025 10 09

[B-Add-12] Lake County Board of Supervisors meeting November 4, 2025, Agenda Item 6.3,

Link to recording:

https://lakecounty.granicus.com/player/clip/807?view_id=1&meta_id=313335&redirect=true

Agenda item files: “Staff recommends a Programmatic Environmental Impact Report (PEIR) be conducted in order to establish thresholds of impact for these aspects of cannabis cultivation and processing. Included as Attachment A is a recent estimate for a PEIR specific to odor impacts. Staff requests Board direction regarding the addition of a PEIR to the development of Article 73.”

PEIR CDD Recommend to BoS 2025 11 04;

“Our scope of work has been prepared to assist the County in preparing a defensible environmental documentation pursuant to the California Environmental Quality Act (CEQA).“ PEIR Scope to BoS 2025 11 04

[B-Add-13] Chapter 7 Supplemental Exhibits Combined.pdf (pp. 3, 4, 6, 9)[See Exhibit A-34 APP 349 to APP-407]