

Agenda Item No. VII.A

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Sent: Tuesday, October 26, 2021 3:39:36 PM

To: Shannon Friedman <sfriedman@trpa.gov>

Cc: Matthew Laster <matthew@ajattorneys.com>; Ronald Alling <ralling@ajattorneys.com>

Subject: Objection-Round Hill Pines Resort Highway Intersection Improvements-TRPA File No. EIPC2021-0012

Dear Governing Board:

Our firm represents the owners of 530, 540, 550 and 560 Sierra Sunset Lane, the properties located immediately north of the Round Hill Pines Beach Resort. The owners of these properties have been in constant contact with the Federal Highway Administration, Central Federal Lands Highway Division ("FHWA-CFLHD") regarding the proposed relocation of the Round Hill Pines entrance, specifically their concerns regarding its impact on their ability to safely enter and/or exit their property. The proposed relocation of the Round Hill Pines entrance does not just affect/threaten the safety of the relative handful of people entering/exiting Sierra Sunset Lane, but it would also affect the safety of everyone who would be entering/exiting the proposed new Round Hill Pines entrance and others traveling, in both directions, on US HWY 50.

Earlier this year, the FHWA-CFLHD completed its "Joint Environment Assessment, US Highway 50 Round Hill Pines Access Project" (the "EA"), Following an in-depth review of the same, my clients' concerns only increased. Section 3.9, Transportation, of the EA, claims to describe "the potential impact to transportation and traffic on and around the Project corridor that might be expected from implementation of the Proposed Project Alternative" and concludes that "[t]he project would not cause a substantial adverse effect upon the existing transportation system or alter existing traffic patterns, ***or increase traffic hazards.***" This claim and, more importantly, the conclusion are deeply flawed.

On June 23, 2021, after reviewing the flawed and incomplete findings found in the EA, our firm reached out to the FHWA-CFLHD. We submitted the following observations and questions:

The proposed location of the new Round Hill Pines entrance is roughly 550' to the south of Sierra Sunset Lane. The EA does not discuss the impacts to and on the intersection at Sierra Sunset Lane. Notably, how will the proposed new Round Hill Pines entrance affect the existing southbound acceleration lane from Sierra Sunset Lane and along westbound US HWY 50? And, will the proposed new Round Hill Pines entrance make it difficult for emergency service providers to access the properties located on Sierra Sunset Lane as traffic stacks up along US HWY 50, blocking access to the Sierra Sunset Lane entrance? And, how will the proposed new Round Hill Pines entrance affect those turning left/northbound onto US HWY 50 from Sierra Sunset Lane (limited sight distance coupled with the possibility of new acceleration lane seems like a recipe for disaster)? Without addressing these questions or discussing the potential impacts of the Sierra Sunset Lane intersection, how can the EA conclude that "the project would not....increase traffic hazards"?

We further advised that,

Until a complete analysis is performed (one that includes a study of the impacts of the proposed new Round Hill Pines entrance on the Sierra Sunset Lane Intersection), a statement of “no significant impact” cannot be made. The FHWA-CFLHD’s EA is incomplete, at least with respect to its findings in Section 3.9, and its conclusions are, therefore, inaccurate. More importantly, the findings, if followed, will almost certainly increase traffic hazards along US HWY 50.

On behalf of my clients, I respectfully request that the FHWA-CFLHD require a traffic study that looks at the whole picture, which necessarily includes the impact of this project on the existing intersection of Sierra Sunset Ln. and US HWY 50. Furthermore, it should be noted that NDOT is currently soliciting input from the public regarding its US HWY 50 East Shore Corridor Management Plan, which may impact the portion of US HWY 50 subject to this Project.

In response, on October 7, 2021, the FHWA-CFLHD informed our firm that it had completed a Finding of No Significant Impact (“FONSI”) document for the US Highway 50 Round Hill Pines Access Project. The memorandum that addresses the proposed project’s effect on Sierra Sunset Lane’s intersection with US 50 as it pertains to safety and accessibility is included in Appendix B. The Appendix B memorandum argues that Sierra Sunset Lane does not qualify for a traffic study. However, the FHWA-CFLHD’s argument is not compelling and transparently self-serving. The proposed relocation of the Round Hill Pines Resort entrance seems to qualify for a traffic study under NDOT Terms and Conditions Relating to Right-of-Way Occupancy Permits booklet in Appendix H, page 4, factor 3: **“If the usage of a previously permitted access point changes significantly, or if the conditions, which led to the traffic generation estimate, which was reported in a previous traffic study change significantly, a new traffic study will be required.”**

The FHWA-CFLHD claims that, “the usage of the Sierra Sunset Lane access is not expected to change significantly upon completion of the Round Hill Pines Access project. Further, the US 50 traffic conditions are not expected to change significantly as a result of this project...” This statement is both an improper application of the rule and speculative. First, the proposed relocation of the Round Hill Pines Resort access point would, if approved, change significantly. This significant change would necessarily impact Sierra Sunset Lane. This significant change would also require the completion of a traffic study. Second, while it is true that the usage (if usage is measured by the daily vehicle trips) of Sierra Sunset will not be impacted by the proposed project, the claim that the conditions along US 50 will not change significantly is nothing but speculation. A proper and thorough traffic study would certainly lead to less speculation and more reliable data, which is why such a study is required when an access point changes significantly.

Additionally, Section 3.10, Noise, of the EA is woefully inadequate, as measurements were not taken from the locations of the proposed improvements and receptors were not placed near the private residential properties. As such, how can the EA reasonably reach the conclusion that proposed new Round Hill Pines entrance will not make an audible difference to the Sierra Sunset Lane properties, specifically 560 Sierra Sunset Lane and 530 Sierra Sunset Lane? It does not appear that the EA even considers the potential impact to 530 Sierra Sunset, as some receptors were at least placed nearby 560 Sierra Sunset Lane. The FHWA-CFLHD addressed this concern by pointing the finger at another party, the special use permittee.

The FHWA-CFLHD's failure to perform a traffic study demonstrates an indifference to human life and safety. For a project premised on "safety", the collective apathy and disinterest displayed by the project's participating agencies towards the safety and well-being of the neighboring property owners is startling. If TRPA approves the Applicant's permit, my clients will be forced to seek injunctive relief and any and all other available legal remedies.

If you have any questions, feel free to give me a call.

Sincerely,

Rich

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