

County of Lassen, California
OFFICE OF COUNTY COUNSEL

Amanda Uhrhammer, Lassen County Counsel
221 South Roop Street, Ste. 2
Susanville CA 96130



May 11, 2021

Doug Smith, General Manager
Lassen Municipal Utility District
65 S. Roop Street
Susanville, CA 96130

RE: Hayden Hill Reclamation Plan

Dear Mr. Smith,

Please consider this letter a final follow-up to your letter of over seven months ago, dated October 1, 2020. In spite of repeated efforts to resolve this matter amicably, as far as the County has been informed, there has been zero progress regarding either the removal of the Hayden Hill Power Line or plans to seek approval to retain the line.

LMUD continues to claim the power line is "valuable infrastructure," but has failed to move forward with any of the steps necessary to lawfully retain the line. While LMUD has consistently told the County that they need time to do their "due diligence" with regard to "any project that may result in expenditure of ratepayer money," LMUD has had years to conduct this "due diligence," and has failed to illustrate any substantive movement forward. The latest update provided to the Board of Supervisors further demonstrated the lack of any progress. In short, in spite of years of efforts on the County's part to resolve this matter short of litigation to compel the district's compliance, LMUD is no closer to compliance with the reclamation plan or with plans to seek approval of a General Plan amendment and related CEQA analysis.

The use permit approval was conditioned upon the removal of the power line or General Plan amendment to allow for its continued existence for other uses. Neither condition has been met.

Absent any concrete evidence presented to the County by LMUD of forward progress, not lip service to future intentions, LMUD leaves the County no choice but to move forward with internal steps related to the use permit and/or legal action necessary to resolve this matter. Be advised that if the County is forced to take these steps, it will seek all available remedies, including, but not limited to, attorney's fees. Your anticipated cooperation is appreciated.

Regards,

Amanda Uhrhammer
Lassen County Counsel

County of Lassen
ADMINISTRATIVE SERVICES



CHRIS GALLAGHER
District 1
DAVID TEETER
District 2
JEFF HEMPHILL
District 3
AARON ALBAUGH
District 4
TOM HAMMOND
District 5

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NOV 08 2019

Richard Egan
County Administrative Officer
email: ceagmin@co.lassen.ca.us

County Administration Office
221 S. Roop Street, Suite 4
Susanville, CA 96130
Phone: 530-251-8333
Fax: 530-251-2663

November 8, 2019

LASSEN COUNTY DEPARTMENT OF
PLANNING AND BUILDING SERVICES

Mr. Bud Bowden
President
Lassen Municipal Utility District Board
65 South Roop Street
Susanville, CA 96130

Mr. Doug Smith
General Manager
Lassen Municipal Utility District
65 South Roop Street
Susanville, CA 96130

Re: Hayden Hill Reclamation Plan – Power Line Removal

At their October 22, 2019 meeting, the Lassen County Board of Supervisors (Board) discussed the failure of Lassen Gold Mining Inc. (LGMI), and the Lassen Municipal Utility District (LMUD) to comply with their respective obligations regarding removal of the Hayden Hill power line now owned by LMUD. As you will recall, LMUD, through their 2007 sales agreement with LGMI assumed responsibility for removal. LMUD recently acknowledged its commitment and obligation by its resolution #2018-06 (copy attached).

The power line removal remains a requirement of the approved Hayden Hill Gold Mine reclamation plan. Per the approved reclamation plan, the line was to be removed after completion of the mining project. Considerable time has passed since the mine was closed, yet the line remains in place. LMUD has made no substantive effort that we are aware of, to obtain changes in the requirements of the approved reclamation plan. Therefore, the Board is requesting that LMUD do one of the following, prior to March 2020:

- 1) Comply with the approved reclamation plan by commencing with power line removal, and provide a proposed completion date to the Board; or
- 2) Provide LMUD's legally supportable alternative plan to obtain changes in the requirement for removal, for Board consideration.

Please provide your response in writing to the Lassen County Department of Planning and Building Services at 707 Nevada Street, Suite 5, Susanville, CA 96130.

Sincerely,



Richard Egan
County Administrative Officer

RE:njm

CC: Lassen Gold Mining Inc. (LGMI)

Jeff Hemphill, Chairmen-Lassen County Board of Supervisors



65 S. ROOP STREET * SUSANVILLE, CA * 96130
(530) 257-4174 * FAX (530) 257-2558

Dave Ernaga, President * Daren Hagata, V.P. * Fred Nagel, Treasurer * H.W. "Bud" Bowden, Director * Jess Urionaguana, Director

February 27, 2020

VIA HAND DELIVERY

Lassen County Department of Planning and Building Services
Attn: Richard Egan, County Administrative Officer
707 Nevada Street, Suite 5
Susanville, CA 96130

Re: Hayden Hill Reclamation Plan – Power Transmission Line

Dear Richard:

I am writing on behalf of Lassen Municipal Utility District (LMUD) in response to the County of Lassen's letter, dated November 8, 2019 (the "County Letter"), regarding the status of a power transmission line that was installed to serve the Hayden Hill Mine, mine #91-18-0012 (the "Hayden Hill Mine"). As the County is aware, LMUD purchased the power transmission line (the "Hayden Hill Line") in December 2007, and provided a financial-assurance mechanism for the Hayden Hill Line, pursuant to the provisions of the 1991 Hayden Hill Reclamation Plan, as modified by the 1999 Hayden Hill Reclamation Plan Modifications. The Hayden Hill Mine is no longer active and the majority of the mine site has been reclaimed, in compliance with the Surface Mining and Reclamation Act and the reclamation plans. However, the Hayden Hill Line, which is not currently in use, remains in place. The County Letter requested that, prior to March 2020, LMUD either "commenc[e] with power line removal, and provide a proposed completion date," or "[p]rovide LMUD's legally supportable alternative plan to obtain changes in the requirement for removal, for Board consideration."

LMUD plans to retain the Hayden Hill Line, as there appears to be no compelling reason to expend public funds to remove it, and it could provide electric service, should the County decide to approve future developments. The Hayden Hill Line is not currently electrified, and LMUD has no plans to electrify it; therefore, the Hayden Hill Line presents no risks with regard to personal injury, property damage, or wildfire.

The Hayden Hill Line also, on its own, will not facilitate new development. Currently, there are only a small number of properties that could potentially obtain power from the line, including a few ranches that are currently powered by diesel generators (and which could benefit from access to reliable electricity). All other parcels and properties in the vicinity of the line are zoned for agricultural use, which does not allow significant residential development. Any re-zoning would require additional approvals and entitlements by the County; therefore, leaving the Hayden Hill Line in place will not induce or facilitate growth or development, and the County remains the gatekeeper as to any future development. To the

extent that environmental review will be required under the California Environmental Quality Act for the decision to leave the Hayden Hill Line in place, that review need not consider the impacts of future development, as whether that development may occur—and the nature and scope of that development, if it does occur—would be entirely speculative.

Furthermore, removal of the Hayden Hill Line would be costly, and could potentially cause adverse impacts to the environment, such as construction noise and emissions of criteria pollutants and greenhouse gasses due to the ingress and egress of equipment. The line is in relatively good condition, and it would cost an estimated \$6,000,000 to build today. On balance, LMUD believes that the Hayden Hill Line is a valuable asset and should remain in place.

The approved Reclamation Plan for the Hayden Hill Mine allows the Hayden Hill Line to remain in place if the County so requests. The Reclamation Plan, as modified in 1999, states that “[t]he transmission line providing power to Hayden Hill will be removed unless it is requested to remain by Lassen County in accordance with the Lassen County use permit.”¹ In order for the Hayden Hill Line to remain in place, the County General Plan will need to be amended. The Conditions of Approval for County Use Permit No. 9-02-89 (the “Use Permit”) state that “[t]he permittee . . . shall remove the line as part of the reclamation and closure process, unless the County adopts General Plan policies to provide for the continued existence of the line for other purposes.”² LMUD is currently reviewing relevant documentation to determine what amendments may be required. Based on the information currently available, such amendments may include amendments to the Hayden Hill Resource Plan and the Energy Element.

Accordingly, LMUD hereby requests the County’s concurrence that the Hayden Hill Line should remain in place and requests a meeting with County staff to discuss necessary amendments to the County General Plan. We look forward to working with the County on this matter.

Sincerely,



Doug C. Smith
General Manager
Lassen Municipal Utility District

cc: Dave Ernaga (basco@frontiernet.com)
Eugene Chittock (echittock@chittocklaw.com)
Kathryn Oehlschlager (koehlschlager@downeybrand.org)

¹ Reclamation Plan Modification, Section 5.7.8; County Resolution No. 07-04-99 (approving the Reclamation Plan Modifications and, as the last condition of approval, stating that the Reclamation Plan Modifications control if in conflict with the previously approved Reclamation Plan).

² County Resolution No. 91-81, Exhibit Six (Use Permit Conditions of Approval), Section I(15).

From: [Matthew May](#)
To: [Nancy McAllister](#); [Cortney Flather](#)
Subject: FW: Hayden Hill
Date: Wednesday, August 5, 2020 2:38:47 PM

From: Maurice Anderson <MAnderson@co.lassen.ca.us>
Sent: Friday, June 26, 2020 7:08 AM
To: Matthew May <MMay@co.lassen.ca.us>
Subject: FW: Hayden Hill

From: Patrick Holley <pholley@lmud.org>
Sent: Friday, June 26, 2020 7:04 AM
To: Maurice Anderson <MAnderson@co.lassen.ca.us>; Doug Smith <dsmith@lmud.org>
Subject: Hayden Hill

This message comes from an external sender. EXTERNAL SENDER WARNING!

Maury, I wanted to send this planning schedule to you to show the steps and the timeframe for our efforts. The work required to prepare for Application for General Plan Amendment would include LMUD discussions and preliminary evaluations with the many parties involved. The schedule below is a tentative estimate of tasks and time required of LMUD resources in advance of Filing an Application. Let me know if you have any thoughts or would like to discuss.

Evaluation Effort:

Prepare scope and a predicted range of costs for preparation of a supplemental EIR anticipating leaving the line in place to be transferred to Surprise Valley Electrification Corp. for their future operation.

1. Meet with Surprise Valley Electrification Corp. and agree on general terms for "potential" transfer of the line to them. Place this item on the LMUD Board agenda. Likely **September 2020.**
2. Meet and discuss the possibility of leaving the line in place with adjacent landowners. Place this item on the LMUD Board agenda for public input. Likely **October 2020.**
3. Meet with USFS to discuss the potential for various types of environmental review. To be completed by **November 2020.**
4. Meet with California Fish and Wildlife to discuss the potential for various types of wildlife review. To be completed by **November 2020.**
5. Meet and discuss with Tribal representatives to determine potential scope of supplemental cultural review items to be included in this review. This may take several meetings and discussions to obtain adequate detail to develop a scope and range of costs for the project. To be completed by **November 2020.**
6. Discuss and evaluate existing EIR and supplemental EIR effort with County Planning Staff and (also based on the input of agencies listed above) with a qualified environmental firm to

develop potential scope of activities, and potential range of costs. To be completed by December 2020.

7. Once determination is made by LMUD Staff as to feasibility of proceeding with the Supplemental EIR effort, the matter will be brought before the LMUD Board for their review and action. To be completed by January 2021. Submittal of a County Application for General Plan Amendment would follow shortly after the LMUD Board Approval.

Pat Holley
LMUD – Asst. General Manager
530 257-6854



65 S. ROOP STREET * SUSANVILLE, CA * 96130
(530) 257-4174 * FAX (530) 257-2558

Dave Ernaga, President * Daren Hagata, V.P. * Fred Nagol, Treasurer * H.W. "Bud" Bowden, Director * Jess Urionaguena, Director

October 1, 2020

Lassen County Board of Supervisors
David Teeter, Chairman
221 S. Roop Street, Suite 4
Susanville, CA 96130

Regarding: Hayden Hill Reclamation Plan – LMUD Efforts

Lassen Municipal Utility District (LMUD) is in receipt of your letter dated Aug 18, 2020, which addressed LMUD's tentative plan and schedule for conducting environmental review and permitting for its plan to leave the Hayden Hill Power Line in place (the "Project"). Despite the fact that LMUD has been working cooperatively with the County to plan for Project implementation, in this letter you state that our "effort seems disingenuous"; accordingly, it appears additional explanation regarding the proposed strategy and schedule is warranted.

LMUD has consistently stated its intention to seek approval to leave the line in place. As you know, LMUD has set aside \$926,000—a great deal of money to our ratepayers—for the potential removal of the line. However, the line is a valuable infrastructure asset, and leaving it in place would result in a variety of benefits. For example, providing power to existing parcels located adjacent to the line would reduce or eliminate air emissions caused by use of diesel-powered pumps and generators. In addition, maintenance of the line also provides a beneficial wildfire mitigation measure, as it acts as a fire break during wildfire events.

However, it is important to note that because LMUD is a public agency, the LMUD Board of Directors and Management are required to exercise due diligence regarding any project that may result in expenditure of ratepayer money. There are a variety of issues that the Board must evaluate as part of the Project. As you know, the Project will require review under the California Environmental Quality Act (CEQA), and the schedule must account for time to prepare a CEQA document. We were told specifically by County Administrative Officer Richard Egan that all environmental studies must be complete and included with our application for a General Plan Amendment, so we are a little surprised to learn that you expected all of this work would be completed by this time.

LMUD is in discussions with Surprise Valley Electrification Corp. regarding a potential transfer of the line to them; in addition to the fact that this act would require Board approval, if Surprise Valley is to take over the line, it is important that their proposed operations be considered in the CEQA document and any Project applications and approvals. In addition, adjacent landowners, representatives of Native American tribes, the California Department of

Fish and Wildlife, and the United States Fish and Wildlife Service have all expressed an interest in the Project, and their input is critical to the CEQA process and the Project, generally. Accordingly, our proposed schedule allows time and opportunity for step-by-step evaluation, as outlined in the submittal of our schedule to Lassen County Planning Department on June 26, 2020.

LMUD has complied with its obligations with regard to the line throughout this process. LMUD only recently gained full control of and access to the line after years of legal action. We have now met the requirements for Financial Assurance and release of financial liability and withdrawal of LGMI (Lassen Gold Mining Inc.) legal action. As with any large project with significant financial and operational impacts, there are schedules and goals for meeting milestones. This project is no different—permitting, engineering, evaluating effects on our system and customers, and impacts to adjacent landowners and other utilities require that we plan and exercise diligence during this process.

Regarding your assertion that the Gold Fire has caused damage to the power line, LMUD qualified personnel have inspected the LMUD-owned facilities within the “Gold Fire” affected area, and there is no evidence of damage to this line. The Gold Fire cosmetically affected the poles, but there was no effect on the structural integrity of these poles. The inspection was conducted on the entire pole line and there were no poles that were recommended for more follow-up inspection or repair.

Please contact us for further information, or if you or anyone on the staff would like to discuss this matter. We hope to work together with the County to move the Project forward, and LMUD would like to request the courtesy of a notification and discussion when this item is to appear on Lassen County Board of Supervisors future agendas.

Sincerely,


Doug Smith, General Manager
Lassen Municipal Utility District

County of Lassen
BOARD OF SUPERVISORS



CHRIS GALLAGHER

District 1

DAVID TEETER

District 2

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District 3

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District 4

TOM HAMMOND

District 5

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221 S. Roop Street, Suite 4
Susanville, CA 96130
Phone: 530-251-8333
Fax: 530-251-2663

Lassen Municipal Utility District
c/o Doug Smith / Pat Holley
65 South Roop Street
Susanville, CA 96130

Re: Hayden Hill Reclamation Plan – Power Line Removal

This letter is in response to an email from Pat Holley, Lassen Municipal Utility District (LMUD) Asst. General Manager, to Maurice Anderson, Director of Planning and Building Services. As requested by Lassen County, in said email LMUD outlines a tentative schedule for upholding their responsibilities with regard to the Hayden Hill power line.

Staff and I have reviewed and considered the content of the email, and to summarize, LMUD proposes a six (or more) month "kick the can" schedule, which will eventually lead to their Board making a decision regarding the *feasibility* of leaving the line in place. Lassen Municipal Utility District's proposal, including the timeframes and content of the schedule are disappointing at best, and frankly, from our perspective the effort seems disingenuous.

Perhaps a yearlong feasibility study would have been prudent/warranted 13 years ago when LMUD made their purchase; however, as expressed in our previous letters, and in meetings between LMUD and County staff, the time has come for action regarding the Hayden Hill power line. In succinct terms, commence with removal of the power line and provide a proposed completion date to the Board of Supervisors, or submit any applications necessary for the Board to consider amendments that would allow the line to remain in place.

It is also worth noting that apparent damage to the power line, resulting from the Gold Fire, has augmented the stated need for action. The burned poles appear to be structurally compromised, and may be hazardous to the Caltrans right-of-way.

Please contact Lassen County Administrative Services at 221 S. Roop Street, Suite 4, Susanville, CA 96130, if you have any questions regarding this letter.

Sincerely,

David Teeter, Chairman
Lassen County Board of Supervisors

RE:mcrrm

S:\PLA\Admin\FILES\800 Planning\20 Mining Files\Master Correspondence OMR and Operators\91-18-0012 Hayden Hill\Powerline

CC: County Counsel, Caltrans

Choose Civility

RECEIVED
NOV 06 2018

Lassen County Department of
Planning and Building Services

RESOLUTION NO. 2018-06

**RESOLUTION OF THE LASSEN MUNICIPAL UTILITY DISTRICT
PROVIDING FINANCIAL ASSURANCE TO LASSEN COUNTY
AND THE DEPARTMENT OF CONSERVATION FOR THE DISTRICT'S
OBLIGATION TO REMOVE THE HAYDEN HILL TRANSMISSION LINE,
CALIFORNIA MINE ID #91-18-0012**

WHEREAS, the Lassen Municipal Utility District ("District") is a municipal utility district organized under California's Municipal Utility District Act (Public Utilities Code § 11501, et seq.) which provides retail electrical service to its customers, and wheels wholesale power for power producers, located within Lassen County, California;

WHEREAS, the District previously purchased a transmission line (the "Hayden Hill Line") located north of the District's service territory, on the Hayden Hill Gold Mine site, mine ID #91-18-0012;

WHEREAS, by virtue of this purchase, the District assumed financial responsibility for removal of the Hayden Hill Line;

WHEREAS, the District has completed a Financial Assurance Cost Estimate ("FACE") in the amount of \$916,798.49, which has been approved by Lassen County ("the County") and the Department of Conservation ("the Department");

WHEREAS, the District is now required to provide Financial Assurance to the County and the Department, as co-beneficiaries, by means of one of the approved Financial Assurance Mechanisms ("FAMs") available to it;

WHEREAS, the District has determined that a Budget Set Aside is the approved FAM best suited to the District's financial situation;

NOW THEREFORE, BE IT RESOLVED, that the Board of Directors hereby adopts a modification to the current fiscal year budget, adding a line item for "Financial Assurance for Removal of Hayden Hill Line" in the amount of \$916,798.49; and

Hereby directs that an equivalent sum will be placed into a Board-Restricted Reserve Account, to be renewed each fiscal year and adjusted annually, if necessary, to at minimum equal the current approved FACE; and


Hereby directs that a new FACE be prepared annually, in accordance with requirements of the Surface Mining and Reclamation Act (SMARA), to reflect current rates of labor, equipment, materials, etc.; and


Hereby authorizes the use of said Budget Set Aside funds by the County or the Department, should the District be found financially incapable of completing removal of the Hayden Hill Line in accordance with the approved reclamation plan or should it be found that the District has abandoned the Hayden Hill Line without completing reclamation (pursuant to California Public Resources Code § 2773.1); and

Hereby directs that this FAM shall remain in effect until the Hayden Hill Line is removed and reclaimed to the satisfaction of the County and the Department, per the approved reclamation plan, or until it is replaced with an adequate FAM, or until the Hayden Hill Line removal requirement is eliminated by approved amendment of the Hayden Hill Gold Mine reclamation plan and Lassen County General Plan, and shall not be released without the written consent and authorized signatures of both the County and the Department.


The foregoing Resolution was duly and regularly passed and adopted by the Board of Directors of the Lassen Municipal Utility District at a regular meeting of said Board duly noticed and held on the 30 day of October, 2018, as follows:

AYES:	<u>4</u>
NOES:	<u>1</u>
ABSENT:	<u>0</u>
ABSTENTIONS:	<u>0</u>


Fred Nagel, President of the
Board of Directors of the Lassen
Municipal Utility District

ATTEST

Karen Rollings, Board Secretary
Lassen Municipal Utility District

APPROVED AS TO FORM AND PROCEDURE


Eugene Chittock, General Counsel