

**General Plan Biological Resources Policy Update  
and Oak Resources Management Plan**

**Environmental Impact Report Notice of Preparation (NOP)**

**Public Comments received during the 30-day NOP Comment Period  
July 17, 2015 – August 17, 2015**

*Comment Period closed at 5:00 p.m. on August 17, 2015*

<b>Date Submitted</b>	<b>Name</b>	<b>Community</b>	<b>Submittal Method</b>	<b>Pdf Page Numbers</b>
7/18/15	Ellen Van Dyke	Rescue	Email	2 -4
8/13/15	Charlet Burcin	El Dorado Hills	Letter	5
8/17/15	Monique Wilbur	Shingle Springs	Email/attachment	6 - 9
8/17/15	Ronald M. Lanner	Placerville	Email	10
8/17/15	Karen Mulvany	Lotus	Email/attachment	11 - 14
8/17/15	Jaime Buetler	EDC Resident	Email/attachment	15 - 20
8/17/15	Scot Bernstein	EDC Resident	Email/attachment	21 - 30
8/17/15	Cheryl Langley	Shingle Springs	Letter	31 - 66
8/17/15	Ellen Van Dyke	Rescue	Letter/attachment	67 -71



Shawna Purvines &lt;shawna.purvines@edcgov.us&gt;

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## Bio Resources Policy NOP questions

1 message

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Ellen Van Dyke <vandyke.5@sbcglobal.net>

Sat, Jul 18, 2015 at 9:15 AM

To: Shawna Purvines <shawna.purvines@edcgov.us>

Cc: Jim Mitrisin <edc.cob@edcgov.us>

Hello Shawna- I have three questions I could use some clarification on for the NOP.

- 1) The NOP pretty specifically gives only the County's physical address as the place to send in comments. I think email is actually ok, but can you confirm?
- 2) Will there be hardcopies of the NOP/IS placed in the County's libraries? and
- 3) Is it safe to assume the Greenhouse Gas emissions WILL be included in the EIR per the Initial Study, and that this is a typo in the NOP? -

Thank you for any information- Ellen Van Dyke

[\(NOP page 7\)](#)

The EIR for the proposed project will focus on the resource areas/issues germane to this particular project. The EIR will evaluate the potentially significant environmental impacts of the proposed project and will evaluate whether there are feasible mitigation measures that may lessen or avoid such impacts. As the proposed project would amend the County's General Plan and influence development activities throughout the County and does not include any specific construction or development, the impact analysis will be programmatic and cumulative in nature. The EIR will also identify and evaluate alternatives to the proposed project. The EIR will evaluate potentially significant environmental effects related to the following environmental issues:

- Aesthetics
- Agricultural and Forestry Resources
- Biological Resources
- Greenhouse Gas Emissions
- Land Use and Planning

As evaluated in the Initial Study, it is not anticipated that impacts would occur within the following environmental topic areas, and therefore these specific environmental issues will not be evaluated further in the EIR.

- Air Quality
- Cultural Resources
- Geology/Soils

SCH# 2015072031

- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology/Water Quality
- Mineral Resources
- Noise
- Population/Housing
- Public Services/Utilities
- Transportation

(Initial Study, p 14/24 of the pdf)

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>VII. GREENHOUSE GAS EMISSIONS</b> - Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DUDEK

13

Initial Study  
July 2015

**El Dorado County Biological Resource Policy Update and Oak Resources Management Plan Project**

a, b) The project proposes amendments to biological resources policies contained in the County's General Plan and adoption of an ORMP. While, the project does not include new construction or land uses that would generate greenhouse gas (GHG) emissions, development that proceeds under the proposed General Plan amendments and ORMP could alter and/or remove vegetation communities, including oak woodlands, and/or oak trees. Conversion of woodlands and other natural vegetation communities to developed uses could generate GHG emissions during the construction process. Further, oak woodlands and other natural vegetation communities serve as a carbon sink, in that they remove GHGs from the atmosphere and store carbon. Therefore, removal of woodlands and other natural vegetation communities could release GHGs into the atmosphere and reduce the natural absorption of GHG emissions. These effects could contribute to adverse climate change effects and could impair the ability of the region and the state to achieve GHG reductions required under state law. **These effects will be evaluated in the EIR.**

Planning Commission  
2850 Fairlane Court Building C  
Placerville, CA 95667

August 13, 2015

*Attn: Char Tim*

Dear Planning Commission Members,

**I have reviewed the draft of the update version to the Oak Tree Woodland Ordinance and strongly disagree with the County's position of deleting Option A which currently requires maintaining a percentage of Oak trees.**

*Removing Option A will destroy habitat, worsen air quality, and remove the aesthetic beauty that the Oak Woodlands provide to our county.*

*Furthermore, Option B shall not be permitted to facilitate the cutting down of 100% of on-site Oak Tree Woodlands which serves no advantage except to developers, unless a project is unable to obtain a reasonable use of the parcel.*

Respectfully,



**Charlet Burcin**

**2650 Mormon Island Drive  
El Dorado Hills, CA 95762**

**EL DORADO COUNTY  
RECEIVED**

**AUG 13 2015**

**LONG RANGE PLANNING**



Shawna Purvines <shawna.purvines@edcgov.us>

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## Bio Resources NOP comments

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**Monique Wilber** <monique.w@comcast.net>

Mon, Aug 17, 2015 at 7:22 AM

To: shawna.purvines@edcgov.us

Cc: charlene.tim@edcgov.us, edc.cob@edcgov.us

Please find attached my comments on the Biological Resources Update NOP. Thank you for the opportunity to comment on the NOP.

Monique Wilber  
Shingle Springs



**Biological Resources NOP 081715.docx**

32K

Biological Resources NOP 08/17/15 Comments  
Monique Wilber, Shingle Springs Resident

Thank you for the opportunity to comment on the Biological Resources NOP.

As a Senior Environmental Scientist, and former El Dorado County Senior Planner in Long-Range Planning working as Project Manager on the former Oak Woodland Management Plan, I have serious concerns regarding the policies that were already decided without pausing to consider public comment. The Notice of Preparation indicates that the lead agency has finished its initial scoping – gathering public comments – and is moving forward with drafting the Environmental Impact Report, *based on policies which should include public opinion*. If EDC has not included public comment in its policies for which the project description is based, then the project description should be reconsidered and the NOP reissued.

Please address the following concerns:

1. Option A was the result of the settlement Writ and should not be eliminated. Please explain how deviating from the Settlement Agreement does not violate the Settlement or CEQA. Please explain how eliminating the Option A incentive to retain oaks benefits the biological resources of the county, as it will direct in-lieu funds into merely retaining patches of oak woodland, disrupting connectivity. Please explain how allowing clear cutting of oaks benefits the biological resources of the county. Please explain the County's record of using biological mitigation funds in a timely manner and utilizing the best science to expend those funds. Where have the Option B oak woodland funds gone? The County did collect some Option B funds before the OWMP was sued. How were these funds used to mitigate for loss of oak woodland?
2. PAWTAC is an advisory body of experts on natural resources. Please explain if PAWTAC is to be removed from biological resources planning. Please advise who on your staff is a natural resources expert and has the biological/ecosystem education? That knows everything from fish and wildlife to oak trees and other habitat to watersheds?
3. Policies that you are eliminating or changing are MITIGATION for development, approved by the voters in the 2004 General Plan. Many of the policies that are being eliminated or changed were NEVER implemented, in violation of CEQA. Please explain which items being proposed are being tiered off the 2004 GP. El Dorado County is out of compliance with CEQA, and anything tiered off the GP is out of compliance with CEQA.
4. Mitigation monitoring, required by CEQA, is not something that the County requires staff to complete. Please explain how mitigation on the 2004 GP was monitored. Please address the success rate of acorn planting and oak tree planting from 2004 to 2015. Please address follow-up that was conducted for parcels with projects that preserved or had a conservation easement placed for rare plants and oaks trees, to be sure the rare plants or oak trees were not removed, from 2004 to 2015. Please explain how many reports were collected by property owners as required by the OWMP and the Oak Woodlands Interim Guidelines. If monitoring was not conducted during those eleven years, please explain how monitoring will be different this time. Have annual reports been received from property owners and

reviewed by staff, to conform to CEQA? What is the measurable ratio of success of replanting? The Oak Woodland Interim Guidelines require that property owners submit reports on health and survivability of oak tree mitigation. Where are these reports housed? Who on staff is assigned to follow-up with oak woodland mitigation? What is the net loss of oak woodland based on these performance standards that were instituted? Have you mapped parcels that have removed oak woodland? Without implementation, there is non-compliance with CEQA, and it is not mitigation at all. Will the County self-monitor?

5. A 1997 study by CalFIRE of EDC oak policies states that higher canopy retention standards and other policy and scenarios don't mitigate oak woodland fragmentation, because they don't explicitly target critical connectivity areas. The former BOS that approved the changed OWMP (changed from this scientific construct) did not allow connectivity issues, and deferred connectivity to the INRMP, which lacked any teeth and was quietly shelved. Any oak plan will need to be a landscape level tool to target critical regional connectivity areas, while project level reports tracked via GIS can provide a tool for analysis of cumulative impacts. EDC did a similar analysis in arrears for the Pine Hill Plants, requiring a great deal of staff time in identifying parcels that had projects, pulling the physical files, copying maps, reviewing biological reports, and then having an intern map said rare plants impacted.

Small isolated patches of woodland, for the oak species and for wildlife and other flora that depend on it, is not a sustainable practice. When projects and their cumulative impacts are worked with in isolation from regional significance, cumulative impacts cannot be assessed for CEQA.

Please explain how this issue will be addressed.

6. Avoidance of impacts is the best form of mitigation. Option A, with its 1:1 replacement ratio, provides incentive over Option B with its 2:1 ratio to retain and conserve canopy. This is a financial and environmental incentive. The idea of removing Option A will create a landscape with no oak trees. This will create a significant impact to habitat, connectivity, watersheds/water quality, air quality, aesthetics, and economics (oak trees in the county increase property values and tourism).

Preservation of acreage in areas that are not legally threatened with imminent development or will be in the foreseeable future is not meaningful preservation. Preserving hinterland that is not in danger of being lost does not mitigate the permanent destruction of the loss of connectivity of oak woodlands that are threatened (for example, along the Highway 50 corridor). Calling this mitigation is saying that a developer is mitigating by not destroying all of a natural resource.

Please explain how this will be addressed.

7. The EDC General Plan EIR, Biological Resources, page 5.12-60 states that Mitigation Measure 5.12-1(f) is to Require Mitigation for Loss of Woodland Habitat. Let us not forget that GP policies are MITIGATION MEASURES for development occurring from the 2004 GP. This mitigation measure states that Policy 7.4.4.4 is applicable to woodland habitat that is not defined as "Important" under the INRMP mitigation measure. On page 5.12-61, there is clear intent in the EIR that Policy 7.4.4.4 will provide protection for smaller stands or groves of oak trees with at least 10% canopy cover. Is "providing



protection" eliminating Option A, which actually does provide protection? Is providing protection, being able to completely clear land of oak woodland? I would also like to point out, that at eleven years post GP implementation, that Mitigation Measure 5.12-1 (g), the Oak Tree Preservation Ordinance, was never implemented.

In order to comply with CEQA the GP must specify measurable performance standards to maintain oak woodland habitat and connectivity. Net loss of woodland occurs over the short term when some trees are protected as a condition for removing other trees (e.g., 1:1 mitigation could lead to a 50% loss). In the long term, there is net loss when mitigation trees/acorns die, as replacements for mature trees.

The EDC GP on page 5.12-31 states that "Standiford et al. (2002), using a modeling approach to evaluate blue oak plantation development, found that average blue oaks were still quite small and that canopy cover was relatively low 50 years after being planted, even with a fairly aggressive restoration effort."

Please explain how this will be addressed.

8. How will the deletion of Option A/Canopy Retention be explained regarding air quality, aesthetics, water quality, and economic sustainability (tourism)?

9. Will the draft policies being developed conform with the TGPA/ZOU, concurrently being developed? These parallel processes cannot be reviewed independent of each other as the cumulative impacts will each affect the other.

10. EIRs are very costly to the taxpayers. Potential policies should be fully vetted WITH the public prior to beginning the EIR process.

11. Please explain all of the outreach that occurred during the scoping process that notified County residents of the plan to allow 100% clearcutting of oaks with no incentive to retain any oaks by developers (removal of Option A).

12. How is the INRMP being utilized? How much did this document cost the taxpayers? At least \$500,000 – or more.

Thank you for allowing me to submit my comments.

Respectfully,

Monique Wilber

Shingle Springs resident



Shawna Purvines &lt;shawna.purvines@edcgov.us&gt;

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## El Dorado County's war on oaks

1 message

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**RONALD LANNER** <PINETREE30@comcast.net>

Mon, Aug 17, 2015 at 2:21 PM

To: shawna.purvines@edcgov.us

El Dorado County Supervisors:

I would like to endorse Ms. Van Dyke's comments on this topic, and I see no way to add substantially to it. Except to say-

—  
As a forester of over half a century, and an appreciator of beautiful habitat long before that, I find the 100% oak removal concept a total travesty and a shameful lack of responsibility to the public and to future county residents. The next step after that can only be strip mining, and it looks like the supervisors have the lack of judgment to go there.

Ronald M. Lanner  
2651 Bedford Ave.  
Placerville, CA 95667  
530-626-7158  
[www.ronaldlanner.com](http://www.ronaldlanner.com)

Let trees show you the way.



Shawna Purvines <shawna.purvines@edcgov.us>

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**(no subject)**

1 message

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**Karen Mulvany** <kmulvany@gmail.com>

Mon, Aug 17, 2015 at 2:34 PM

To: shawna.purvines@edcgov.us

Dear Ms. Purvines;

Attached please find my comments on the Initial Study & Environmental Checklist for the Biological Resource Policy Update and Oak Resources Management Plan Project.

Thank you,  
Karen Mulvany



**2015 0817 K Mulvany Biological Resources comment letter signed.pdf**

286K

PO Box 768  
Lotus, CA 95651  
March 16, 2015

El Dorado County Community Development Agency  
Long Range Planning  
Attn: Shawna Purvines  
2850 Fairlane Court, Placerville, CA 95667

Submitted by email to:  
Shawna Purvines  
Principal Planner  
shawna.purvines@edcgov.us

To Whom It May Concern:

I am writing to submit comments with respect to the “Initial Study & Environmental Checklist for the Biological Resource Policy Update and Oak Resources Management Plan Project” (the “Initial Study”) dated July 2015.

Pages 10- 11 of the Initial Study states:

“ a, b) The proposed project involves amending biological resources policies contained in the County’s General Plan and adopting an ORMP. The project does not include new construction or land uses that would have the potential to adversely affect biological resources. *However, development that proceeds under the proposed General Plan amendments and ORMP could adversely affect such resources by altering and/or removing vegetation communities, which support special-status species and provide habitat for plants and wildlife, and/or oak trees. While the proposed amendments to the policies are intended to protect biological resources and establish mitigation requirements for loss of vegetation communities, ongoing General Plan implementation under the proposed project could result in substantial changes in the presence and distribution of vegetation communities throughout the County. This is considered a potentially significant impact and will be evaluated further in the EIR.*”

*(Italics added)*

The above passage in the Initial Study specifically references riparian habitat. In order to fulfill the promise of this passage, the Initial Study should also evaluate the impact of the county’s proposal in the Targeted General Plan Amendment (TGPA) to eliminate historical restrictions in the General Plan that have prohibited new parcel formation within Dam Failure Inundation (DFI) areas, all of which lie along riparian streambeds.

This TGPA proposal is cited on p. 2-9 of the the Partial Recirculated Draft Program EIR (RDEIR) for El Dorado County Targeted General Plan Amendment (TGPA) and Zoning Ordinance Update (ZOU) dated January 2015 as follows:

*“Policy 6.4.1.4 and 6.4.1.5: New Parcels in Flood Hazard Areas. Reference to the flood insurance rate maps would be removed from these policies to address recommendations by the Office of Emergency Services and Homeland Security regarding dam failure inundation.”*

The proposed changes to the General Plan are as follows (see p. 21 of Proposed TGPA track changes document):

**‘PUBLIC HEALTH, SAFETY, AND NOISE ELEMENT  
OBJECTIVE 6.4.1: [Flood Hazards] DEVELOPMENT REGULATIONS**

Policy 6.4.1.4 Creation of new parcels which lie entirely within the 100-year floodplain as identified on the most current version of the flood insurance rate maps provided by FEMA ~~or dam failure inundation areas as delineated in dam failure emergency response plans maintained by the County~~ shall be prohibited.

Policy 6.4.1.5 New parcels which are partially within the 100-year floodplain ~~or dam failure inundation areas as delineated in dam failure emergency response plans maintained by the County~~ must have sufficient land available outside the FEMA ~~or County~~ designated 100-year floodplain ~~or the dam inundation areas~~ for construction of dwelling units, accessory structures, and septic systems. Discretionary applications shall be required to determine the location of the designated 100-year floodplain ~~and identified dam failure inundation areas~~ on the subject property.”

New development is capped on a per-parcel basis, so by allowing new parcel formation within dam failure inundation areas, the TGPA allows for increased development within DFI areas, including residential structures.

As noted in my March 16, 2015 comment letter on the RDEIR,

“The RDEIR does not address the environmental impact of newly allowed development that would be feasible under the proposed TGPA which would allow for new parcel formation within the 100 year floodplain or dam failure inundation areas. New parcel formation in flood prone areas means new development in riparian and wetlands zones which are subject to a host of environmental regulations which have not been assessed in this RDEIR. The EIR must include the impact analysis for all flood risk areas that will be affected by new parcel formation and the inevitable incremental development.”

I understand that the Initial Study adopts the position that the increase in the maximum allowed development in the county is unlikely to result in a change in density over what would likely have occurred under the existing General Plan. However, when a newly revised policy specifically targets a riparian area for increased allowed development, this assumption is likely wrong. The Initial Study author may wish to note that the Zoning Ordinance Update (ZOU) proposes that numerous parcels within the Dam Failure Inundation area be rezoned to smaller parcel sizes, for the purpose of allowing even more new parcel formation to occur than would currently be possible should the DFI new parcel formation restrictions be lifted. Consequently, the riparian impact of the proposed TGPA and ZOU changes must be presumed to be significant.

The Initial Study table should address these impacts until the board of supervisors has formally withdrawn the proposed changes to Policy 6.4.1.4 and 6.4.1.5 of the General Plan, as recommended by staff.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Karen Mulvany". The signature is fluid and cursive, with the first name "Karen" and last name "Mulvany" clearly distinguishable.

Karen Mulvany



Shawna Purvines <shawna.purvines@edcgov.us>

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## public Comment/Bio Resources NOP

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**Jamie Beutler** <beutlerjamie@gmail.com>  
To: shawna.purvines@edcgov.us

Mon, Aug 17, 2015 at 3:58 PM

Hi Shawna,

The above are Ellen Van Dyke's comments and I'd like to go on record as supporting those comments in principle.

Thank you,

Jamie Beutler



**NOP Comments\_Bio Policies\_8.17.15.pdf**  
793K

## Van Dyke Public Comment for Biological Resources NOP, 8/17/15

An NOP signals that the drafted policies have been vetted and are ready to be analyzed in the EIR. Yet the multiple outreach meetings largely disregarded public comment. The removal of Option A to allow 100% oak tree removal may please developers and staff, but it is NOT supported by residents. *Initiation of this EIR is premature if the drafted policies do not yet reflect the will of County residents. Please reconsider the Project Description and reissue this NOP.*

Additionally, I would like to see the following concerns addressed regarding the biological policies as drafted:

1. The Project cannot be reviewed 'in a vacuum', and changes resulting from the TGPA/ZOU must be included in the cumulative impacts analysis if that project has not been concluded or is tied up in litigation.

Some of the TGPA/ZOU changes that have not been reviewed relative to removal of the Option A retention standards are:

- a. reduced open space requirements (ordinance 17.28.050B)
  - b. increased hillside development (policy 7.1.2.1)
  - c. reduced riparian setback (ordinance 17.30.030G3d)
  - d. allowance for development within the riparian setback (ordinance 17.30.030G5)
  - e. intensification of zoning (ie, minimum 20 acre parcels changed to minimum 10 acre zoning)
  - f. expanded uses within zone districts (use matrices throughout the ZOU: 17.21.020, 17.22.020...)
  - g. expanded uses under the Home Occupancy Ordinance
  - h. expanded uses into Rural Regions (Table 2-1, Policy 2.2.1.1)
  - i. expanded exemptions to the biological policies, such as agricultural activities, hillside development, and underground utilities(ordinance 17.30.060D)
  - j. reduced agricultural setback requirements (policies 8.1.3.1/8.1.3.2)
  - k. the 2004 General Plan impacts that are no longer being mitigated -see 2. below.
2. Any elements of the 2004 General Plan that counted on mitigations now being eliminated must be factored back in to the impact analysis. For example, if constraints to development in 2004 included open space protections and restricting hillside development, and those mitigations are revised, the impact of having the Community Regions expanded by some 300 parcels via the 2004 Gen Plan will have to be reviewed relative to the removal of Option A and mitigation measures CO-A, -L, -M, -N, -O and -P.
  3. Neither the NOP nor the ROI's it is based on (ROI 118-2015 & 109-2015) reflect the June 22<sup>nd</sup> motion of the Board to include oak tree retention standards in the alternatives (minutes attached). In the July 14<sup>th</sup> hearing staff asserted they needed further direction, and it appears none has been given. The project description is flawed and should be revised, possibly with a new NOP circulated for public review.
  4. How can Option A be deleted when it was required by the 2005 court decision that lifted the writ of mandate? This may necessitate a different/additional analysis.
  5. Broaden the impact analysis of heritage tree designation to potentially protect trees 24" in diameter and greater, which would be in alignment with other similarly rural counties. If only 36" is analyzed as proposed, "lesser" options will not be possible; this process is supposed to be helping to inform the Board's decision.
  6. Fully analyze acorn planting as a mitigation, per Board direction June 22<sup>nd</sup>. While acorn planting may be excellent for restoration and supported by the Kuehl Bill, it is not utilized for actual *replacement mitigation* in other counties. Provide monitoring results from other Counties as well as El Dorado County.



7. Provide analysis for the impact of allowing conservation easements to occur within Community Regions and Rural Centers. The drafted policies currently exclude this, but there are MANY acres of oak woodland and other habitat within these regions that will be subject to 100% oak removal and fragmentation. Provide accurate and detailed mapping showing where oak woodlands, rare plant habitat, and migratory trails exist.
8. Discuss what mitigations would be required to encourage regeneration of oak trees if cattle grazing is to be allowed concurrent with conservation easements.
9. Policy 7.4.2.8 currently requires mapping of five specific major habitats to be updated every three years, to identify the amount of important habitat removed because of new development. This requirement has not been complied with and is now being deleted. Why?
  - a. New maps that are accurate, detailed, and legible, should be provided with a comparison to the last maps done (10 years ago?)
  - b. Has *not* having these updates done as required contributed to connectivity and habitat loss?
  - c. Rather than remove the requirement, would an effective solution be to actually comply with it?
10. It is not clear why ministerial development, or agricultural activities, or low income housing, should be exempt from the biological policy requirements- please discuss this, and provide analysis of impacts if they were NOT to be exempted.
11. The NOP (page 7) mentions an Oak Resources Conservation ordinance that is "to be developed" for adoption with the ORMP. This is a vague reference to an important document that the public has not seen. If the retention standards lacked specificity for inclusion, surely this does too, and I would object to this EIR 'blessing' an unknown document.
12. These policies will allow an increase in the conversion of biological habitat into residential use - an impact on Air Quality, Greenhouse Gases, Transportation and Noise seems likely. These categories should not be exempt in this EIR.
13. County staff has expressed to the public that the policies proposed are essentially consistent<sup>1</sup> with the current General Plan. If this were true an EIR would not be necessary. The change to allow 100% tree removal is a significant change that has not been made clear to the public. It must be clarified in the EIR and not buried with declarations of '*there's not really any change*'. There must be a true good faith effort to communicate the policy changes and encourage public discourse in order to be CEQA compliant.
14. If the comments submitted for this NOP reflect general dissatisfaction in the policies themselves, please revisit the drafted policies prior to initiating a costly EIR.

A few policy references are attached below for convenience.

Ellen Van Dyke, Rescue

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<sup>1</sup> Principle Planner, Purvines, Mountain Dem article "County updating General Plan biological policies"

For Reference:

**6/22/15 Motion of the Board requiring oak tree retention standards be included in the EIR:**

Public Comment: E. Vandyke, J. Buetler, K. Payne, R. Hargrove, L. Christensen, C. Louis, R. Louis, A. Cantwell, J. Davies

A motion was made by Supervisor Ranalli, seconded by Supervisor Veerkamp to Approve this matter, Adopt Resolution's 108-2015 and 109-2015 and direct staff to:

Consider project alternatives as part of the environmental review process including:

- 1) Adding oak resource retention standards;
- 2) Options for Individual Oak Tree (IOT) replacement mitigation (e.g. acorn to 15 gallon potted tree) and associated analysis of the implications for the In-lieu Fee Nexus study based on these options, and
- 3) Oak resource mitigation requirements related to discretionary and ministerial projects.

Yes: 4 - Mikulaco, Veerkamp, Frentzen and Ranalli

Absent: 1 - Novasel

**From the 2005 court decision that lifted the 1999 writ of mandate against the county:**

PROCEEDINGS: MOTION FOR REVIEW OF COUNTY'S RETURN TO WRIT OF MANDATE-RULING

process. Thus, issues concerning changes made in former versions of the General Plan are no longer relevant.

Moreover, the County has gone well beyond the direction of the 1999 writ. It has provided a new analysis of the impacts of replacement versus retention of oak woodlands, and it has also eliminated the "replacement" option from the policy as approved. The new, revised canopy protection measure keeps the retention percentages that were adopted in 1996, eliminates replacement as an option in lieu of retention, and requires a replacement of any canopy not required to be retained under the policy. In addition, the current DEIR proposed an alternative to the retention requirements, "Option B", which allows the County to require a project applicant to provide funding for woodland preservation in lieu of on-site canopy retention. The preservation would be at a 2:1 ratio and would allow the County to pool funds and apply them towards acquisition and restoration projects that would preserve larger contiguous blocks of habitat. The County adopted other new mitigation measures regarding oak woodland habitat. (See Mitigation Measures 5.12-1(e) and 5.12-1(g).)

**Policy 7.4.1.6** All development projects involving discretionary review shall be designed to avoid disturbance or fragmentation of important habitats to the extent reasonably feasible. Where avoidance is not possible, the development shall be required to fully mitigate the effects of important habitat loss and fragmentation. Mitigation shall be defined in the Integrated Natural Resources Management Plan (INRMP) (see Policy 7.4.2.8 and Implementation Measure CO-M).

The County Agricultural Commission, Plant and Wildlife Technical Advisory Committee, representatives of the agricultural community, academia, and other stakeholders shall be involved and consulted in defining the important habitats of the County and in the creation and implementation of the INRMP.

**MEASURE CO-A**

Review the Zoning Ordinance (Title 17 of the El Dorado County Code) to identify revisions that accomplish the following:

- A. Incorporate tree canopy coverage standards outlined in Policy 7.4.4.4;
- B. Develop standards for use of native plants in landscaping [Policy 7.4.5.2];
- C. Establish Historic Design Control Combining Zone District and design guidelines for reconstruction and construction of new buildings and the demolition of existing buildings in such districts. Adopt an ordinance amendment implementing historic design review requirements and recordation procedures. [Policies 7.5.2.1, 7.5.2.2, and 7.5.2.4];
- D. Develop buffer standards for new non-mining land uses next to existing mining operations [Policy 7.2.2.3];
- E. Develop standards for minimizing erosion and sedimentation associated with earthwork and grading [Policy 7.1.2.2].

#### **MEASURE CO-U**

Mitigation under Policy 7.4.1.6 shall include providing sufficient funding to the County's conservation fund to acquire and protect important habitat at a minimum 2:1 ratio. The cost associated with acquisition, restoration, and management of the habitat protected shall be included in the mitigation fee. For larger development projects (i.e., those that exceed a total of 10 acres), in addition to contributing to the conservation fund at a minimum 2:1 ratio, onsite preservation and/or restoration of important habitat shall be required at a 1:1 ratio. Impacts on important habitat and mitigation requirements shall be addressed in a Biological Resources Study and an Important Habitat Mitigation Program (described below).

- A. Biological Resources Study. The County shall adopt biological resource assessment standards that apply to all discretionary projects that would result in disturbance of soil and native vegetation in areas that include important habitat as defined in the INRMP. The assessment of the project site must be in the form of an independent Biological Resources Study, and must be completed by a qualified biologist. The evaluation shall quantify the amount of important habitat, by habitat type, as defined in the General Plan and delineated on maps included in the INRMP. The Biological Resources Study shall also address the potential for the project to adversely affect important habitat through conversion or fragmentation. This requirement shall not apply to projects that are on lands that either (1) have already been the subject of a study and for which all mitigation requirements are being implemented or (2) have been evaluated by the County and found to not possess any important habitat resources.
- B. Important Habitat Mitigation Program. The Biological Resource Study shall include an Important Habitat Mitigation Program that identifies options that would avoid, minimize, or compensate for impacts on important habitats in compliance with the standards of the INRMP and the General Plan. All mitigation programs shall include a monitoring and reporting component requiring reports to the County not less than once each year for a period of not less than 10 years. The report will include a description of the lands included in the mitigation program (including location and size), a summary of the evaluation criteria established at the time the mitigation program was approved, an evaluation of the mitigation program based on those criteria, and recommendations for action during the following year. The County shall adopt standards for evaluating mitigation programs proposed as part of the Biological Resources Study described above. The standards shall ensure that the mitigation reduces direct and cumulative impacts of proposed development on important habitats to less than significant levels in accordance with CEQA thresholds.

**Policy 7.4.4.4** For all new development projects (not including agricultural cultivation and actions pursuant to an approved Fire Safe Plan necessary to protect existing structures, both of which are exempt from this policy) that would result in soil disturbance on parcels that (1) are over an acre and have at least 1 percent total canopy cover or (2) are less than an acre and have at least 10 percent total canopy cover by woodlands habitats as defined in this General Plan and determined from base line aerial photography or by site survey performed by a qualified biologist or licensed arborist, the County shall require one of two mitigation options: (1) the project applicant shall adhere to the tree canopy retention and replacement standards described below; or (2) the project applicant shall contribute to the County's Integrated Natural Resources Management Plan (INRMP) conservation fund described in Policy 7.4.2.8.

**Option A**

The County shall apply the following tree canopy retention standards:

The County shall apply the following tree canopy retention standards: <b>Percent Existing Canopy Cover</b>	<b>Canopy Cover to be Retained</b>
80–100	60% of existing canopy
60–79	70% of existing canopy
40–59	80% of existing canopy
20–39	85% of existing canopy
10-19	90% of existing canopy
1-9 for parcels > 1 acre	90% of existing canopy

Under Option A, the project applicant shall also replace woodland habitat removed at 1:1 ratio. Impacts on woodland habitat and mitigation requirements shall be addressed in a Biological Resources Study and Important Habitat Mitigation Plan as described in Policy 7.4.2.8. Woodland replacement shall be based on a formula, developed by the County, that accounts for the number of trees and acreage affected.

*Article excerpt referenced in footnote 1:*

# Mountain Democrat

PLACERVILLE, CALIFORNIA

News

## County updating General Plan’s biological policies

By **Chris Daley** From page A1 | July 27, 2015

### Public hearings will be set

El Dorado County’s 2006 Oak Woodlands Management Plan, newly re-christened as the Oak Resources Management Plan, is once again getting a makeover.

Developed by the Long Range Planning Division of the Community Development Agency, the biological policy update project’s new resolution of intention was presented by Principal Planner Shawna Purvines at the Board of Supervisors’ July 14 meeting. Initially slated on the Consent Calendar, the items were moved off for discussion at the urging of local resident/activist Jamie Beutler and others.

As explained by Purvines, the new ROI was needed because an earlier version “didn’t accurately reflect the language of dealing with the ORMP and Rare Plants.” Both are part of the General Plan’s Chapter 7 —

Conservation and Open Space Element — and the issue goes back nearly a decade. The original Oak Woodlands Management Plan was overturned by a court decision, in part, because the county did not adequately address mitigation methods regarding removal or disruption of oaks and oak woodlands in its environmental impact report.

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The recommended amendment removes the A and B Options in favor of “an incentive-based approach.”

In separate e-mails and copies of e-mails, Purvines wrote to the Mountain Democrat and to the Green Valley Alliance’s Ellen Van Dyke. She said in part, “The board’s decision to revise General Plan policy 7.4.4.4 related to oaks is consistent with the 2004 General Plan and essentially consistent with the 1996 General Plan which both included the options of retention ‘or’ mitigation.”



Shawna Purvines &lt;shawna.purvines@edcgov.us&gt;

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## Comment Letter Regarding Notice of Preparation of EIR re Oak Resources Management Plan

1 message

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Scot Bernstein <swampadero@sbernsteinlaw.com>  
To: Shawna.purvines@edcgov.us  
Cc: swampadero@sbernsteinlaw.com

Mon, Aug 17, 2015 at 4:55 PM

Dear Ms Purvines,

Attached is my comment letter regarding the Notice of Preparation of the Environmental Impact Report for the General Plan Biological Resources Policy Update and Oak Resources Management Plan.

Thank you for your attention to this matter and for the opportunity to comment.

Scot Bernstein

Scot Bernstein  
Law Offices of Scot D. Bernstein  
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101 Parkshore Drive  
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Telephone: 916-447-0100  
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**EIR EI Dorado Oak Ord Comment 2015 0817.pdf**

134K



Shawna Purvines <shawna.purvines@edcgov.us>

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## FW: Comment Letter Regarding Notice of Preparation of EIR re Oak Resources Management Plan

1 message

---

Scot Bernstein <swampadero@sbernsteinlaw.com>

Mon, Aug 17, 2015 at 5:00 PM

To: Shawna.purvines@edcgov.us, charlene.tim@edcgov.us, edc.cob@edcgov.us, rich.stewart@edcgov.us

Cc: swampadero@sbernsteinlaw.com

All –

Please see email below and attachment.

Thank you.

Scot Bernstein

Scot Bernstein  
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**From:** Scot Bernstein [mailto:swampadero@sbernsteinlaw.com]  
**Sent:** Monday, August 17, 2015 4:56 PM  
**To:** 'Shawna.purvines@edcgov.us'  
**Cc:** Scot Bernstein <swampadero@sbernsteinlaw.com>  
**Subject:** Comment Letter Regarding Notice of Preparation of EIR re Oak Resources Management Plan

Dear Ms Purvines,

Attached is my comment letter regarding the Notice of Preparation of the Environmental Impact Report for the General Plan Biological Resources Policy Update and Oak Resources Management Plan.

Thank you for your attention to this matter and for the opportunity to comment.

Scot Bernstein

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 **EIR EI Dorado Oak Ord Comment 2015 0817.pdf**  
134K



8/18/2015

Edcgov.us Mail - FW: Comment Letter Regarding Notice of Preparation of EIR re Oak Resources Management Plan

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August 17, 2015

Shawna Purvines  
Principal Planner  
El Dorado County  
[Shawna.purvines@edcgov.us](mailto:Shawna.purvines@edcgov.us)

VIA EMAIL ONLY to [Shawna.purvines@edcgov.us](mailto:Shawna.purvines@edcgov.us)

**RE: Comment on Notice of Preparation of Environmental Impact Report for the  
General Plan Biological Resources Policy Update and  
Oak Resources Management Plan**

Dear Ms Purvines:

I am a long-time resident of El Dorado County. I write this letter to express concerns regarding the proposal to weaken oak tree and oak canopy protections in El Dorado County. This letter will serve as my comment on the Notice of Preparation of Environmental Impact Report (“EIR”) for the for the General Plan Biological Resources Policy Update and Oak Resources Management Plan

Let me begin by stating that it is my understanding that the proposals would allow for reduced canopy protections and, with the payment of a mitigation fee, no canopy retention requirement whatsoever. The latter sounds like permission to clearcut oak woodlands can be bought for a fee. If that is incorrect, I am interested in understanding how and why.

I have reviewed the list of subjects that will and will not be covered in the EIR. The list of subjects that the EIR will evaluate are as follows:

**Aesthetics**  
Agricultural and Forestry Resources  
**Biological Resources**  
**Greenhouse Gas Emissions**  
**Land Use and Planning**

The list of environmental topic areas with respect to which “it is not anticipated that impacts would occur” and which therefore “will not be evaluated further” are as follows:

Shawna Purvines  
Principal Planner  
El Dorado County  
August 17, 2015  
Page 2

**Air Quality**

Cultural Resources

Geology/Soils

**Greenhouse Gas Emissions**

**Hazards and Hazardous Materials**

**Hydrology/Water Quality**

Mineral Resources

**Noise**

Population/Housing

Public Services/Utilities

**Transportation**

I will comment on the subjects that are highlighted in the lists above.

The starting point for this analysis is that the proposed changes are not happening in a vacuum. Permission to reduce oak canopy protections is being sought so that oak woodlands can be replaced with housing developments. Thus, to be valid, any analysis of the environmental impacts of the proposals must consider not just their direct or first order effects but also their inevitable consequences.

With that in mind, here are my comments regarding the highlighted topic areas above.

**Greenhouse Gas Emissions.**

You may have noticed that this subject is included in both the “will evaluate” and the “will not be evaluated” categories. Obviously, one of those inclusions is incorrect. I cannot tell which one. But on the chance that the real intention is not to evaluate Greenhouse Gas Emissions, my comment is that it should be studied.

First, oak trees are photosynthesizing organisms. They break down carbon dioxide and release oxygen into the atmosphere. They are large, so they do that on a large scale.

The use of the term “emissions” in the above heading may be a bit of a misnomer. Emitting a carbon dioxide molecule has exactly the same impact as failing to break down a carbon dioxide molecule that otherwise would have been broken down. Either way, you have one more carbon dioxide molecule than you otherwise would have had. So removing oak trees, whether or not the removal process increases “emissions” in a literal sense, clearly increases the total carbon dioxide in the atmosphere.

But the consequences of permitting oak tree removal will increase greenhouse gas emissions in a direct way. The oaks that are removed will not be replaced by grasslands. They will be replaced by housing developments. And with houses come cars – thousands and thousands of cars. And cars emit greenhouse gases.

How much greenhouse gas is emitted by them is impacted by both the number of cars and the amount of time they spend on the road. With key transportation corridors in this county already very congested during commute hours and other peak-traffic times of day, that time on the road can be expected to be quite long. If the EIR does not address greenhouse gas emissions in the context of not just the direct consequences of removing the oak trees but also the indirect consequences of what will replace the oak trees, it will be providing an incomplete analysis.

### **Aesthetics**

Oak trees and oak woodland are beautiful. That is a widely-held view. The beauty of El Dorado County is why a lot of its residents live here. Permitting large-scale destruction of oak trees and oak woodland, in and of itself, will damage the aesthetics and natural beauty of the County. Replacing them with housing developments, as inevitably will happen, will be far worse. An analysis that looks only at the direct effects of removing some oak trees and does not account for their likely large-scale removal and replacement with housing subdivisions cannot serve as a complete analysis of the impacts of the proposed change.

### **Biological Resources**

Oak woodland is an entire ecosystem. Allowing oak trees to be clear-cut cannot help but impact biological resources. And replacing them with asphalt and houses will have a greater impact still.

### **Land Use and Planning**

Weakening protection of oak woodlands is a big step toward further, large-scale urbanization of a beautiful county whose residents prize its natural beauty and rural lifestyle. Once again, an analysis that assumes that the removal of oaks will happen on a small or intermediate scale, and does not account for the thousands of houses thousands of cars that inevitably will take their place, will be an incomplete analysis.

## **Air Quality and Hazards and Hazardous Materials**

The direct impact of removing large numbers of oak trees from the local environment will be less photosynthesis and less carbon dioxide reduction. But the larger impact by far will be the air quality degradation that will result from the building of thousands of houses and the arrival and use of several cars for each household. If oaks can be clear-cut for the payment of a “mitigation” fee, the result will be urban air quality in El Dorado County. Because many of the pollutants in motor vehicle exhaust are hazardous materials, the EIR should address the impacts in both of these categories.

## **Hydrology/Water Quality**

Water quality will suffer as well. Not only will the biological processes of oak woodlands be missing, but they will be replaced with housing developments and their inevitable use and disposal of a multiplicity of household chemicals, many of which will end up in the groundwater. Once again, an EIR that ignores this inevitable impact of allowing replacement of oak woodlands with housing developments cannot be considered complete.

## **Transportation**

Replacing oak woodlands with thousands of houses and two to four times as many cars will worsen traffic congestion dramatically. If the average commuting resident spends an extra ten minutes a day in traveling each direction five days a week, fifty weeks a year, the extra time in the car will amount to more than 83 hours each year. That’s two workweeks of *extra time* behind the wheel each year. If that isn’t a transportation problem, a degradation in the quality of life in El Dorado County, it’s hard to imagine what is. To be complete, the EIR must address the transportation problems that inevitable will arise from a loosening of oak tree protections.

## **Noise**

Woodlands are sound barriers. Clear-cutting them eliminates that protection. Worse, the increased traffic and increased population that will result from replacing oak woodland with housing subdivisions inevitably will increase noise levels and further disturb what still is a rural lifestyle in El Dorado County. Thus, the EIR, to be complete, must analyze noise issues as well.

Shawna Purvines  
Principal Planner  
El Dorado County  
August 17, 2015  
Page 5

Thank you for your attention to these important matters and for the opportunity to comment.

Very truly yours,

Scot Bernstein

SDB:msw

Cheryl Langley  
5010 Mother Lode Drive  
Shingle Springs, CA 95682

Ms. Shawna Purvines, Principal Planner  
EDC Development Agency, Long Range Planning Division  
2850 Fairlane Court  
Placerville, CA 95667

August 17, 2015

RE: Notice of Preparation for the Biological Resources Policies Update & Oak Resources Management Plan

Ms. Purvines:

Thank you for the opportunity to comment on the Biological Resources Policy Update (BRPU). I request the following information be included in the draft Environmental Impact Report (dEIR).

**Impact to Efficacy of the 2004 General Plan**

- Discuss how the removal of specific biological resources mitigation policies will impact the “legitimacy” and “viability” of the 2004 General Plan, since its approval was based in part on the presence of specific mitigation measures (e.g., the Integrated Natural Resources Management Plan, etc.).
- Because both the INRPM and Option A have been eliminated under the BRPU, include a discussion that specifies how the Oak Resources Management Plan (ORMP) satisfies the court decision brought relative to the Oak Woodlands Management Plan. How can both elements (INRMP and Option A) be deleted and yet satisfy mitigation requirements under that decision?

**Targeted General Plan Amendment/Zoning Ordinance Update (TGPA/ZOU) Approval/Implementation**

Multiple TGPA/ZOU policy changes will impact on oak woodlands—such as the TGPA/ZOU sanctioned conversion of open space to agricultural land—and will not be evaluated under any EIR: not under the TGPA/ZOU EIR, and not under the BRPU/ORMP EIR.

Impact to biological resources will be *significant* and *adverse* because agriculture is exempt from oak woodland protection measures (as well as other measures that protect biological resources—riparian protections, and so forth). The TGPA/ZOU will also amend **Policy 2.2.3.1 (open space in –PD zones)**; this will “...reduce the open space available for wildlife habitat in –PD zones and thereby increase the potential to adversely impact special-status species.” It will also exempt **Residential Agriculture** from the list of zoning regulations that provide for maintenance of permanent open space, allow development on slopes  $\geq 30$  percent, adversely impact riparian woodland, and impact the groundwater resources oak woodlands rely upon.

In addition, Dudek estimates of **oak woodland acreage impacted** are based on the 2004 General Plan, not on TGPA/ZOU policies. Specifically, Dudek excluded an estimate of oak woodlands on slopes  $\geq 30$  percent, but **the TGPA/ZOU will enable development on these slopes**. Thus, the estimates in Dudek’s *Oak Woodland Impact and Conservation Summary Table 5* are short-lived, if the TGPA/ZOU is adopted.

- Discuss the impact on the BRPU/ORMP if the TGPA/ZOU is approved. That is, discuss whether a revision of the BRPU EIR will be required to accommodate the additional impacts the TGPA/ZOU will have on elements in the BRPU.

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- Explain how the BRPU can legitimately be separated from the TGPA/ZOU evaluation. (The current BRPU is evaluated only in the context of the 2004 General Plan.)
- The TGPA/ZOU was evaluated as if Option A, the INRMP, and *multiple* other mitigations were “viable.” Because these mitigations have been stripped away under the proposed BRPU, will the TGPA/ZOU EIR be recirculated if the proposed ORMP is adopted? Please explain.
- Provide information on the TGPA/ZOU impact to oak woodlands (including its impact on oak woodlands in agricultural-zoned lands, and as a result of the reduction in open space requirements, allowance of construction on sites with > 30% slope, the depletion of groundwater that oak woodlands rely upon, etc.)

#### **Support Information for Approaches A, B & C**

County staff prepared documents for the November 21, 2014 Biological Resources Workshop that included three **approaches (A, B and C)** to facilitate the completion of the ORMP project description and environmental review (County documents 7A and 7B). On page 5 of Staff Memo 7B, staff included a table that presents three approaches and their relative level of “*significant and unavoidable impacts.*” When asked how these impact levels were derived, staff did not (or could not) answer. References (supporting documentation) were not supplied at that time, nor subsequent to the workshop. Despite the absence of supporting documentation, the Board of Supervisors made the decision to proceed with **Approach A.**

Thus, it is not known what information the impact levels were based upon. This information was not available to the public, and it is reasonable to assume it was not available to the decision making body (Board of Supervisors).

- I am requesting that the evidence/studies/science that served as the basis for the level of impact determinations for **Approaches A, B and C** be made available and included in the dEIR. Please include any and all documentation, (letters, emails, etc.) used to support the impact determinations (such as communications with outside agencies, etc.).

#### **Mitigation Performance**

According to *A Planner’s Guide for Oak Woodlands*:<sup>1</sup>

...ecologists now recognize that **replacing a century old tree with 1, 3, or 10 one-year-old seedlings does not adequately replace the lost habitat value of large trees.** It has become evident that **simply focusing on mitigation plantings based on a tree to seedling ratio is not a sufficient strategy to ensure the viability of oak woodlands.** [R]eplacement seedlings as a mitigation measure for removal of older stands of trees cannot meet the immediate **habitat needs** of forest-dependent animal species.

It is apparent that **preservation of oak woodland on-site is the preferred “mitigation.”** Short of on-site preservation, **the purchase of oak woodlands that will remain undeveloped in perpetuity** is to be preferred over on-site (or off-site) planting of saplings. Revegetation on- or off-site is a poor substitute for mature woodland, especially when value as **wildlife habitat** is part of the equation. **It is likely that**

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<sup>1</sup> Giusti, G.A. et al (editors). 2005. *A planner’s guide for oak woodlands*. University of California, Agriculture and Natural Resources, Publication 3491, second edition.



the loss of oak woodlands cannot be adequately mitigated under the current ORMP, especially in the absence of Option A retention requirements.

### Mitigation Strategy

The proposed mitigation options need to be defined—or actually— redefined.

According to *A Planner's Guide for Oak Woodlands*:<sup>2</sup>

[T]he ultimate goal for planting mitigations should be tree establishment and long-term survival. The impact should be compensated for by replacing or providing substitute resources, such as **planting large container-grown trees, rather than seedlings or acorns** to expedite the recovery of the lost habitat component, or off-site mitigation actions, or mitigation banking. **However, off-site measures should be considered sparingly and should not be viewed as a convenient way to achieve mitigation objectives; off-site mitigation proposals should be carefully considered so that the strategy *is not abused*.**

If replacement planting *is* chosen as a means of mitigation in the ORMP, the mitigation must meet performance standards:

- Please specify performance standards for mitigation plantings. For instance, in the Interim Interpretive Guidelines (IIG) (7)(b), page 10, and IIG (7)(c), page 11, replacement plantings are “designed” to achieve oak woodland canopy coverage equal to the canopy removed **no more than 15 years from the date of planting**. **What is the performance standard for the mitigations described in the ORMP?**

Acorn planting as mitigation for the removal of mature stands of oaks is wholly inadequate. While it has been stated during ORMP workshops that acorn planting is sometimes the preferred method of achieving oak mitigation, there are many caveats that make this method of oak woodland replacement ineffective.

According to McCreary,<sup>3</sup> the planting of acorns will be impacted by a whole host of factors such as conditions at the planting site, including the kinds of animals present. **Because acorns are an important food source for a whole host of animals, acorn plantings are difficult to protect.** McCreary also warns that the type of care necessary for survival and growth may not be logistically feasible for remote planting sites,<sup>4</sup> making a difficult prospect more even more susceptible to failure.

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<sup>2</sup> Giusti, G.A. et al (editors). 2005. *A planner's guide for oak woodlands*. University of California, Agriculture and Natural Resources, Publication 3491, second edition.

<sup>3</sup> McCreary, D.D. Undated. *How to Grow California Oaks*. University of California Oak Woodland Management. Available at: [http://ucanr.edu/sites/oak\\_range/Oak\\_Articles\\_On\\_Line/Oak\\_Regeneration\\_Restoration/How\\_to\\_Grow\\_California\\_Oaks/](http://ucanr.edu/sites/oak_range/Oak_Articles_On_Line/Oak_Regeneration_Restoration/How_to_Grow_California_Oaks/)

<sup>4</sup> McCreary, D.D. Undated. *Living Among the Oaks: A Management Guide for Woodland Owners and Managers*. University of California, Agriculture and Natural Resources, Oak Woodland Conservation Workgroup; publication 21538.

### **Oak Regeneration and Acorn Plantings**

The issue of oak regeneration comes into play when acorn planting is chosen as the path to oak woodland replacement.

According to *A Planner's Guide for Oak Woodlands*:<sup>5</sup>

...the same factors that prevent or limit **natural regeneration** can also take a heavy toll on artificial plantings. **To be successful, relatively intensive site preparation, maintenance, and protection must usually be provided for several years.**

**There is substantial evidence suggesting that several species, including blue oak, valley oak, and Engelmann oak (*Quercus engelmannii*) are not reproducing at sustainable levels in portions of California. Simply stated, there are not enough young seedlings or saplings to take the place of mature trees that die, raising questions about the future of these species in the state.**

**Numerous causes have been cited, including increased populations of animals and insects that eat acorns and seedlings, changes in rangeland vegetation, adverse impacts of livestock grazing (direct browsing injury, soil compaction, and reduced organic matter), and fire suppression. Some people also suspect that climate change is a factor...**

This troubling condition—that of poor regeneration—means the viability of acorn plantings, too, will be problematic, **making replacement of woodlands via the planting of acorns a fragile, ineffective strategy.**

According to McCreary,<sup>6</sup> **an effective alternative to directly sowing acorns is growing oak seedling in containers and then planting the saplings out in the field.** McCreary indicates propagating oaks in this manner results in starts that "...have higher survivorship than directly planted acorns, but they also cost far more."

Regarding acorn planting, I have the following requests for information:

- Please identify in the dEIR **other counties that utilize acorn planting** for mitigation and **describe the success rate** (efficacy) of such plantings **for each species of oak**. Describe locations at which such mitigation has taken place, and the date of plantings. Please include photographs of the site.
- The *Biological Resources Study and Important Habitat Mitigation Program Interim Guidelines (November 9, 2006)*, pages 15-16 (under Discretionary Project Reporting Requirements) specify a **15 year (annual) monitoring period for oak regeneration projects that utilize acorns**. This monitoring period has been changed to 7 years (based most likely on Kuehl bill requirements). **Explain in the dEIR the reason for the monitoring period reduction.** (That is, explain why what

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<sup>5</sup> Giusti, G.A. et al (editors). 2005. *A Planner's Guide for Oak Woodlands*. University of California, Agriculture and Natural Resources, Publication 3491, second edition.

<sup>6</sup> McCreary, D.D. Undated. *Living Among the Oaks: A Management Guide for Woodland Owners and Managers*. University of California, Agriculture and Natural Resources, Oak Woodland Conservation Workgroup; publication 21538.

was once acceptable/recommended has been reduced, given the more “protective” nature of the longer monitoring period).

- The IIG (7)(c), page 11 indicates maintenance and monitoring shall be required for a minimum of 10 years after the planting of trees (saplings, etc.) **Explain in the dEIR why this maintenance and monitoring period has been reduced under the ORMP**, given it was once acceptable/recommended and is more “protective.”

#### **Mitigation Efficacy**

According to the California Environmental Quality Act (CEQA) 15126.4a1(B) “Where several measures are available to mitigate an impact, each should be discussed and **the basis for selecting a particular measure should be identified.**” And, according to the Oak Woodland Impact Decision Matrix<sup>7</sup> conservation planning grounded in science-based information supports the development of sensitive planning scenarios. But, **while mitigation strategies are identified in the ORMP, the strategies themselves do not represent vetted processes. Efficacy of the measures must be proven; evidence must be provided.**

- Please include in the dEIR references for the science-based information used as a basis for mitigation strategies proposed in the ORMP.
- Include a discussion of mitigation efforts undertaken in the County. Discuss **failed mitigations**, and the **reason(s) for their failure**. (Such as the mitigation plantings adjacent to Serrano Village D2—see the following photos.)
- Describe mitigation efforts (oak replanting efforts) that have been **successful** in the County. Describe the location of the plantings, the type of oak replanting that took place (i.e., acorns, container plants, etc.—including the size of the container plants), when they were planted, and the current status (size, condition, mortality rate, etc.) Please include photographs of the site.
- Given the many examples of failed mitigation efforts in the County, discuss why the public should have confidence that future mitigations will be successful. (That is, **past performance is the best predictor of future performance.**)

The following photos were taken of **mitigation plantings** by Serrano Village D2 in “tree shelters.” (This village was built around 2001-2003.) Photos taken **June, 2015**.

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<sup>7</sup> Giusti, G., et al. 2008. *Oak Woodland Impact Decision Matrix: a guide for planner’s to determine significant impacts to oaks as required by SB 1334 (Public Resources Code 21083.4)*. UC Integrated Hardwood Range Management Program, 2008.



This is a photo of a “tree shelter” around a blue oak; it was probably planted around the time of adjacent village construction (2001-2003).

Photo taken June, 2015.



Note the low success rate of blue oak plantings, even with tree shelters



The tree shelters in this area (as seen in foreground) are mostly devoid of trees (approximately 12-14 years after planting).

#### **Revised Definition of Woodland**

**“Oak Woodland”** needs to be redefined to include not only standing living oaks, “...but also trees of other species, damaged or senescent (aging) trees, a shrubby and herbaceous layer beneath the oak canopy, standing snags, granary trees, and downed woody debris in conjunction with [oaks].”<sup>8</sup>

Existing oak woodlands need to be evaluated under these criteria and, *if on-site retention is not possible, **mitigation for the loss of all woodland components*** through either conservation easement or fee title acquisition in perpetuity of biologically equivalent (or greater) woodland must take place to ensure replacement of viable woodland/wildlife habitat. (Napa County, for instance, evaluates all woodland components and employs a 60/40 retention in *sensitive water drainages*: 60% tree cover; 40% shrubby/herbaceous cover.)<sup>9</sup>

- Explain why the ORMP defines oak woodland in the following manner, and not in the manner described above in the Tuolumne County document (that acknowledges oak woodlands as wildlife habitat):

**Oak Woodlands:** An oak stand with a greater than 10 percent canopy cover or that may have historically supported greater than 10 percent canopy cover (California Fish and Game Code Section 1361).

**Source:** ORMP, page 27.

- Discuss how the definition of oak woodland in the ORMP serves to limit mitigation effectiveness, and how the definition from Tuolumne County (above) expands mitigation viability.

<sup>8</sup> Michael Brandman Associates. 2012. Tuolumne County Biological Resources Review Guide. December 4, 2012; page 32. Available at: <http://www.tuolumnecounty.ca.gov/DocumentCenter/View/204>

<sup>9</sup> Napa County. 2010. Napa County Voluntary Oak Woodlands Management Plan. October 26, 2010; page 20. Available at:

<http://www.countyofnapa.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=4294973990>

### Exempt Actions

- **Exemption for Personal Use of Oak Woodland Resources.** ORMP, page 7: *“When a native oak tree, other than a Heritage Tree, is cut down on the owner’s property **for the owner’s personal use.**”* This provision for “personal use” is problematic.
  - **Explain what deters a property owner from “pre-clearing” oaks under the guise of “private use.”**
  - Include a discussion—and some options for defining “personal use”—that may include **restricting personal use to certain zoning classifications** (i.e., residential parcels of 10 acres or less, for example) and eliminating from “personal use” land zoned for commercial, industrial, and other properties subject to planned development, area specific plans, etc.
  - Include a discussion that evaluates incorporating measures that **restrict for a period of time—say 10 years—the rezoning of land that has been pre-cleared, even if oak woodland was removed while the land was under a zoning district that allows oak tree removal for personal use** (parcels of 10 acres or less, for example).

This discussion is necessary (as is the provision of a measure designed to prevent such behavior) because it is well known—and documented—that sites within the County have been cleared of oak trees immediately prior to development proposal. (Documentation provided upon request.)
  
- **Exemption for Non-Commercial Agricultural “Operations.”** ORMP, page 7: *“Agricultural cultivation/operations, **whether for personal or commercial purposes** (excluding commercial firewood operations).”*
  - Include in the dEIR why this measure is necessary, and how much oak woodland is potentially impacted by this measure. The El Dorado Irrigation District (EID) is already on the threshold of eliminating a reduction in water rates for such operations, thus threatening their viability. Thus, while EID policies undercut such activity, the ORMP allows for the removal of oak resources minus mitigation. A reasoned outcome is that oaks are removed for a “hobby” agricultural operation that has little chance of being maintained.

### Commercial Wood-Cutting Operations

There are too few restrictions placed on commercial firewood cutting operations. This lack of restrictions places oak woodland—especially blue oak woodland—in jeopardy.

The following is an excerpt from page 11 of the ORMP:

Commercial firewood cutting operations shall also require a tree removal permit if not approved under an oak woodland removal permit. In reviewing a tree removal permit application for commercial firewood cutting operations, the County shall consider the following:

- Whether the removal of the tree(s) would have a **significant negative environmental impact**;
- Whether the tree proposed for removal is a Heritage Tree;
- Whether replanting would be necessary to ensure **adequate regeneration**;
- Whether the removal would create the **potential for soil erosion**; and
- Whether any other limitations or conditions should be imposed in accordance with **sound tree management practices**.

- Please include in the dEIR the **specific criteria (thresholds)** used to determine the following:
  - “significant negative environmental impact”;
  - “adequate regeneration”;
  - “potential for soil erosion”; and
  - “sound tree management practices.”
- Include in the dEIR a discussion of specific criteria/thresholds/restrictions applied to **restrict removal activity** to a level that precludes impact to a level of “significant environmental impact,” and that supports adequate regeneration, avoids soil erosion, and institutes sound management practices.
- While **commercial firewood cutting operations** would be required to obtain a permit under the proposed plan, **there is no mention of minimum retention standards**. Shasta and Tehama counties adopted resolutions calling for **30 percent crown cover retention**.



**Photo Source:** Standiford, et al., 1996. *Impact of Firewood Harvesting on Hardwood Rangelands Varies with Region*. California Agriculture, March-April, 1996.



Blue oak firewood en route to Bay Area markets.

**Blue oak firewood  
en route to  
Bay Area markets.**

**Photo Source:** Cobb, J. 2015. California Oaks, letter to the California Board of Forestry and Fire Protection and the California Air Resources Board dated June 29, 2015 ([Attachment 1](#)).

**In-Lieu Fee Use**

- **Define in the dEIR exactly what the in-lieu fee will be used for.** Include a discussion of the benefit of a clause that addresses unexpended funds in the following manner: change existing language from *“revenues shall be allocated for some other purpose”* to *“revenues shall be dedicated to land conservation or natural lands stewardship.”* This suggested language **provides some flexibility while keeping the use of the funds focused** if the County has difficulty expending all the funds specifically for oak woodlands within the five year time frame.

**Willing Sellers in Community Regions/Rural Centers**

- Discuss how allowing **willing sellers** in Community Regions and Rural Centers to “sell” their property into **conservation easement** status would impact County conservation efforts. Discuss the reasoning behind *not* allowing willing sellers in these designations to sell, and discuss whether or not this restriction is based upon habitat evaluation (study).

**Site Concurrence**

- Include an evaluation of the viability/impact of **site concurrence by the California Department of Fish and Wildlife (CDFW)** in the process of establishing **conservation easements**. At least one county (Tuolumne) recommends dedication of such lands to a land conservation group **approved by the county with concurrence** by CDFW.<sup>ii</sup> Such concurrence would ensure easements provide the maximum benefit to wildlife.
- Discuss how this site concurrence by CDFW may assist developers with identification of appropriate conservation zones.

**Advisory Body**

- Evaluate in the dEIR the establishment of an **advisory body** (like PAWTAC) to review mitigation plans, mitigation implementation, and efficacy. (Ideally this advisory body would make recommendations to appropriate governing bodies, work with land conservation groups, and be responsible for homeowner education (protection of oaks in the landscape).



### **Initial Study**

Following is a discussion of the Initial Study. The dEIR **will evaluate environmental impacts in the following areas:**

#### **4.0 PROBABLE ENVIRONMENTAL EFFECTS AND SCOPE OF THE EIR**

The EIR for the proposed project will focus on the resource areas/issues germane to this particular project. The EIR will evaluate the potentially significant environmental impacts of the proposed project and will evaluate whether there are feasible mitigation measures that may lessen or avoid such impacts. As the proposed project would amend the County's General Plan and influence development activities throughout the County and does not include any specific construction or development, the impact analysis will be programmatic and cumulative in nature. The EIR will also identify and evaluate alternatives to the proposed project. The EIR will evaluate potentially significant environmental effects related to the following environmental issues:

- Aesthetics
- Agricultural and Forestry Resources
- Biological Resources
- Greenhouse Gas Emissions
- Land Use and Planning

**The following issues are not to be covered** (although Greenhouse Gas Emissions [GHG] are listed in both areas—to be covered, and not to be covered, I assume from additional discussion in the Initial Study that GHGs will be covered, but would like this clarified).

As evaluated in the Initial Study, it is not anticipated that impacts would occur within the following environmental topic areas, and therefore these specific environmental issues will not be evaluated further in the EIR.

- Air Quality
- Cultural Resources
- Geology/Soils

- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology/Water Quality
- Mineral Resources
- Noise
- Population/Housing
- Public Services/Utilities
- Transportation

**Air Quality/Greenhouse Gas Emissions**

While GHGs are listed on both the “to do” and “not to do” lists, the Initial Study acknowledges GHG emissions from the removal of oak woodlands ***“could contribute to adverse climate change and could impair the ability of a region...to achieve GHG reductions required under state law.”***

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>VII. GREENHOUSE GAS EMISSIONS – Would the project:</b>				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**El Dorado County Biological Resource Policy Update and Oak Resources Management Plan Project**

a, b) The project proposes amendments to biological resources policies contained in the County’s General Plan and adoption of an ORMP. While, the project does not include new construction or land uses that would generate greenhouse gas (GHG) emissions, development that proceeds under the proposed General Plan amendments and ORMP could alter and/or remove vegetation communities, including oak woodlands, and/or oak trees. Conversion of woodlands and other natural vegetation communities to developed uses could generate GHG emissions during the construction process. Further, oak woodlands and other natural vegetation communities serve as a carbon sink, in that they remove GHGs from the atmosphere and store carbon. Therefore, removal of woodlands and other natural vegetation communities could release GHGs into the atmosphere and reduce the natural absorption of GHG emissions. These effects could contribute to adverse climate change effects and could impair the ability of the region and the state to achieve GHG reductions required under state law. These effects will be evaluated in the EIR.

**And yet, the following notation in the Initial Study stands in contradiction:**

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
III. AIR QUALITY – Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- Include in the dEIR a discussion of this contradiction.
- Discuss the impact on air quality caused by the increase in development—residential, commercial, industrial, etc.—and the associated increase in emissions from increased vehicular traffic, construction activities, etc. **(Developers are now constrained under Option A restrictions, in combination with the lack of an in-lieu fee option; now that numerous mitigation options will be available, growth/development will inevitably occur.)**
- Include in the dEIR a complete evaluation of Air Quality issues, including GHGs, and other emissions from commercial woodcutting operations, and the large-scale removal of oaks for planned development projects, specific area plans, agricultural operations, etc.
- Include in the dEIR a complete evaluation as required under AB 32, as described below.

**Assembly Bill (AB) 32** (See also Attachments 1 & 2).

The goal of AB 32—the California Global Warming Solutions Act—is to reduce carbon dioxide (CO<sub>2</sub>) emissions by 2020 to 1990 levels, with a further 80 percent CO<sub>2</sub> reduction by 2050. The bill emphasizes the evaluation of CO<sub>2</sub> associated with the conversion of forests to other uses. **Oak woodland CO<sub>2</sub> emission effects must be considered for projects that convert native forests to non-forest use.** Both direct CO<sub>2</sub> emission impacts from dead tree disposal and cumulative impacts due to the loss of future increases in live tree carbon sequestration represent a biological emission subject to CEQA analysis and mitigation. Live tree biomass (including roots), standing dead tree biomass, and wood lying on the ground are to be evaluated to measure oak woodland biological emissions under CEQA.

CEQA CO<sub>2</sub> questions to be answered include:

- how much potential CO<sub>2</sub> sequestration over the next 100 years will be lost due to impacts to live native trees three (3) inches or greater diameter at breast height (dbh); and
- how much sequestered CO<sub>2</sub> will be released if the live trees, standing dead trees or woody debris are burned?

**The County must analyze and mitigate CO<sub>2</sub> biological emissions associated with the land use changes that result in the loss of oak woodland sequestration capacity** (the conversion of oak woodlands to non-forest use) and CO<sub>2</sub> release from burning oak debris/wood. If such an analysis is not done, the County disregards not only CEQA, but the Office of Planning and Research (OPR) guidelines, California Attorney General opinions and Court decisions. (See Center for Biological Diversity, et al. v. City of Desert Hot Springs, et al. (2008) Riverside County Superior Court - Case No. RIC 464585 and Berkeley Keep Jets Over the Bay Committee vs. Board of Port Commissioners (2001) 91 Ca.App.4th 1344, 1370-71.)

**Because California has designated CO<sub>2</sub> emissions a grave human health risk, local jurisdictions cannot invoke ministerial or overriding considerations in determining proportional mitigation for carbon biological emissions due to oak woodlands conversion to non-forest use.** It is considered an abuse of discretion to declare an inadequately mitigated oak woodland conversion a **public benefit** when in fact woodland conversion represents a demonstrable **public health hazard**.

- Provide a complete analysis as required under AB 32.

#### **Cultural Resources**

Disregarding oaks and oak woodlands as important cultural resources is an error. Many cultural resources are closely associated with oaks and oak woodlands, and this important aspect needs to be evaluated in the dEIR.

#### **A. CULTURAL/HISTORICAL**

Artifacts of the Native American people who historically lived in Napa County tend to be co-located with oak woodlands, which provided them with the acorns they relied upon for food. According to local historian Lin Weber, shamans of the Wappo people would offer prayers for the health of the oak trees, and the Wappo named months of the year after the seasonal phases of oaks.<sup>1</sup> Present day oak stands or individual trees may have historical significance due to past events or structures that were associated with them. Many historical accounts mention the trees and the use of specific trees as landmarks or as boundary markers. The earliest European settlers found refuge from the hot valley sun for themselves and their livestock under oaks and benefited economically from the use of oaks for building material and firewood. Oak woodlands also created venues for recreation and public events. Napa County's remaining oak woodlands continue to serve as a reminder of our cultural and historical heritage.



Source: Napa County. 2010. *Napa County Voluntary Oak Woodlands Management Plan*. October 26, 2010. Page 8.

- Discuss in the dEIR the cultural significance of oaks. Identify specific oaks/oak woodlands/woodland areas that have historical significance in El Dorado County, and describe the basis for their significance.

**Geology and Soils**

While the Initial Study cites no impact to geology and soils from the anticipated removal of oaks and oak woodland, it is nonetheless known that numerous significant impacts can occur.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>VI. GEOLOGY AND SOILS – Would the project:</b>				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>VI. GEOLOGY AND SOILS – Would the project:</b>				
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Removal of oaks—especially on sloped land—can cause serious soil erosion, and can cause slope instability (landslides). The presence of oak trees can also facilitate the uptake of moisture from septic systems and improve their performance (VI)(e).

In fact, the ORMP, page 8, cites the potential for erosion during woodcutting operations, and cites (page 4) the following benefits from the preservation of oaks and oak woodlands:

#### ***1.4 Economic Activity, Land, and Ecosystem Values of Oak Resources***

Agriculture and recreation-based tourism are important economic generators in El Dorado County. Oak resources provide value for these activities, including forage value for ranching, soil retention and watershed function benefits that contribute to agricultural activities, and aesthetic value for agri-tourism. Oak resources contribute to soil retention and provide watershed benefits, which have benefits to the agricultural community. Deer and other game species are dependent on oak woodland habitat and provide recreational hunting opportunities, which can generate revenues for ranching land owners through hunting leases. Oak resources contribute to a high-quality visit for recreation tourists, whose activities may include camping, fishing, hiking, bird-watching, and equestrian trail riding.

Studies have also concluded that the presence of oak resources enhances property value by providing shade, wind breaks, sound absorption, land use buffers, erosion control, and aesthetic beauty. Oak resources also contribute to healthy lands and watersheds. They do this by providing habitat for animals, maintaining water quality, and improving soil characteristics. Oak resources have also been identified as a valuable component in greenhouse gas reduction, trapping and storing atmospheric carbon dioxide.

Other sources also identify oaks and oak woodlands as providing erosion control and soil stability.

#### **C. EROSION CONTROL**

Oaks help control soil erosion in several ways. Oak woodland canopy intercepts raindrops and dissipates rainfall energy, reducing potential surface erosion. Oak leaf-fall and twigs that accumulate on the soil surface under oak woodland canopy also provide further protection against the erosive action of rainfall. In addition, tree roots and their associated symbiotic soil fungi promote the formation and stability of fine and coarse soil aggregates which help to promote soil cohesion and stability, reducing the risk of landslides and gully/rill erosion. Oak woodland located on soils and slopes prone to erosion can also help prevent degradation in water quality and uphold soil/land productivity. The planting of oaks in areas historically known to support oak woodland that currently exhibit accelerated erosion from lack of tree cover can help to stabilize and prevent further erosion in these areas.

Source: Napa County. 2010. *Napa County Voluntary Oak Woodlands Management Plan*. October 26, 2010. Page 9.

- Provide in the dEIR a complete description of the potential impacts of oak tree/oak woodland removal, including the impact on soil stability, erosion, septic tank performance, etc.

#### **Hazards/Hazardous Materials**

In El Dorado County, the removal of oaks and oak woodland can disturb layers of soil and rock **containing asbestos**.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>VIII. HAZARDS AND HAZARDOUS MATERIALS – Would the project:</b>				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- Include in the dEIR a discussion of oak woodlands that are located in areas known to be asbestos bearing. Describe and map those areas, and include the land use designations in those areas.

#### **Hydrology/Water Quality**

The removal of oaks/oak woodlands will have broad impact on hydrology/water quality; the dEIR needs to discuss/disclose these impacts. In fact, the ORMP, page 4 describes the benefit of oak tree/oak woodland retention on hydrology:

#### ***1.4 Economic Activity, Land, and Ecosystem Values of Oak Resources***

Agriculture and recreation-based tourism are important economic generators in El Dorado County. Oak resources provide value for these activities, including forage value for ranching, soil retention and watershed function benefits that contribute to agricultural activities, and aesthetic value for agri-tourism. Oak resources contribute to soil retention and provide watershed benefits, which have benefits to the agricultural community. Deer and other game species are dependent on oak woodland habitat and provide recreational hunting opportunities, which can generate revenues for ranching land owners through hunting leases. Oak resources contribute to a high-quality visit for recreation tourists, whose activities may include camping, fishing, hiking, bird-watching, and equestrian trail riding.

Studies have also concluded that the presence of oak resources enhances property value by providing shade, wind breaks, sound absorption, land use buffers, erosion control, and aesthetic beauty. Oak resources also contribute to healthy lands and watersheds. They do this by providing habitat for animals, maintaining water quality, and improving soil characteristics. Oak resources have also been identified as a valuable component in greenhouse gas reduction, trapping and storing atmospheric carbon dioxide.

And yet, the Initial Study does not acknowledge this benefit, nor the impact the removal of oaks/oak woodland will have on hydrology—and, by association—water quality.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>IX. HYDROLOGY AND WATER QUALITY – Would the project:</b>				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- Include in the dEIR a complete discussion of the impacts of oak/oak woodland removal on hydrology/water quality.
- Discuss the impact on oaks/oak woodland that will occur as a result of new development that is groundwater dependent, and the impact on County residents that rely on groundwater resources.

Below is a discussion of some issues related to oak/oak woodland removal and hydrology/water quality from other sources.



## B. FLOOD PROTECTION

The Napa River is historically prone to flooding, causing damage to homes and vineyards within its floodplains. Oak woodlands play a part in minimizing the strength and effect of the river's floodwaters. Oaks slow the eroding energy of rainfall with their canopies by temporarily hold rainwater on their leaf and stem surfaces during a rainstorm, increasing the amount of time rain takes to reach the ground and contribute to runoff. Oak woodland canopies capture 20-30% more rainfall than do grasslands, and their contribution to organic matter in the soil improves its water holding capacity. As a result, they have a high capacity for detaining peak flows from rainfall events that

would otherwise run in larger volumes and at higher velocities into streams, contributing to flooding, erosion, and sediment and nutrient concentrations that can harm water quality. The greatest flood protection/attenuation benefits related to tree canopy cover are in watersheds that quickly concentrate flows and pose a risk of flash flooding and in areas where runoff conveyance is already near capacity. Oak trees also capture and transpire moisture from the soil during the growing season. Compared to annual vegetation, oaks can extract water from the soil profile to a greater depth. Consequently, soils under oak woodland canopy are able to absorb and hold greater amounts of rainfall than equivalent soils with only annual grassland cover. This extra storage capacity further reduces the potential for flooding during the rainy season and promotes groundwater recharge.

Source: Napa County. 2010. *Napa County Voluntary Oak Woodlands Management Plan*. October 26, 2010. Page 8 - 9.

## D. WATER QUALITY PROTECTION

Oak woodlands, whether located on the hillsides or on level lands near streams, play an important role in protecting water quality. By minimizing soil erosion as noted above, oak woodlands can help reduce sediment transport and washing of fine sediments into local waterways. High levels of sediment in waterways can negatively impact the aquatic food supply by reducing habitat available for fish, aquatic invertebrates and other organisms



important to the diets of fish and birds. The Napa River is currently listed as impaired for sediment and a Sediment Total Maximum Daily Load (TMDL) is in the process of being adopted by the State.

The contribution of oaks and other vegetation to erosion prevention near waterways is especially important if soils contain excessive nutrients, pathogens or high levels of toxic material (natural or human concentrated), such as chemical contaminants, mercury or other heavy metals. Putah Creek, for example, has elevated levels of mercury in the soils of the bed and banks of its tributaries and is the focus of State regulatory efforts (TMDL)

to reduce mercury levels. Oaks and other vegetation also help reduce soil contamination by absorbing heavy metals, fertilizer nutrients, and pesticides from the soil and intercepting sediments containing these pollutants, thereby preventing these materials from reaching surface waters. Oaks and associated permanent vegetation along waterways can also reduce potential waterway contamination from airborne pesticide or herbicide drift, since oak foliage can intercept airborne pesticides/ herbicides.

Source: Napa County. 2010. *Napa County Voluntary Oak Woodlands Management Plan*. October 26, 2010. Page 9 - 10.

**Noise**

The large-scale removal of oaks for some projects—commercial woodcutting operations, planned development projects, specific area plan implementation, agricultural operations, etc., will have an impact on noise levels in the County.

- Please include in the dEIR a discussion of noise from the activities described above, and describe the mitigation measures that may be employed to reduce the impact (e.g., limitations on the hours of operation of chain saws, dozers, or other tree removal equipment).

**Population/Housing**

There will inevitably be an increase in the amount of housing (and therefore population) as a result of the adoption of the ORMP. As stated under Air Quality, **developers are now constrained under Option A restrictions, in combination with the lack of an in-lieu fee option. Now that numerous mitigation options will be available, growth/development will inevitably occur.**

- Discuss the impact of the increase in population on County services, etc., that will result from ORMP adoption.

**Public Services/Utilities**

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>XVII. UTILITIES AND SERVICE SYSTEMS – Would the project:</b>				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The removal of oak trees/oak woodland can have a significant impact on the need to construct storm water drainage facilities (see discussion under Hydrology/Water Quality).

- Include in the dEIR a discussion of the impact of oak/oak woodland removal on hydrologic patterns, and how that may result in the need to construct new storm water drainage facilities, etc.

**Project Alternatives**

I respectfully request that the following project alternatives/alternative elements be evaluated:

**Project Alternative 1. Retention of the Option A oak retention schedule.** Oak retention should be the priority. Other alternatives/mitigations should be utilized **only after it has been determined the project cannot meet the Option A retention schedule through any reasonable means.** A discussion of the necessity of Option A retention follows.

**The Standiford Study**<sup>10</sup> (NOTE: This study was relied upon for development of the County's IIG.) According to Standiford, the results of this study (cited in the footnote below) call into question whether planted stands adequately mitigate the loss of mature stands. The mitigated blue oak stand wildlife species list (specific to the Sierra Nevada foothills) was compared to a natural blue oak stand, averaging 10 inches dbh, with a 30 percent canopy cover. The natural stand was assumed to have small and medium size downed wood, snags, acorns and trees with cavities and was projected to have 102 vertebrate wildlife species. The number of vertebrate species projected to occur in a mitigated stand—after 50 years—was 73 species (1 amphibian, 40 bird, 19 mammal, and 13 reptile species). The results of this study underscore the fact that blue oak woodlands develop habitat conditions slowly, and that it may take in excess of 50 years to replace mature habitat that is lost in a particular project.

The results suggest it is important to evaluate if tree planting is a viable method of mitigation, especially because many important habitat elements such as cavities, acorns, snags, and woody debris may not be mitigated—at least in the 50-year interval evaluated in the study. **Thus, it is important to conserve oak woodland in a natural state, whenever possible.**

At the June 22, 2015 Biological Resources meeting, the Board of Supervisors agreed it was important to evaluate the addition of oak retention standards to the ORMP process.

A motion was made by Supervisor Ranalli, seconded by Supervisor Veerkamp to Approve this matter. Adopt Resolution's 108-2015 and 109-2015 and direct staff to:  
Consider project alternatives as part of the environmental review process including:  
1) Adding oak resource retention standards;  
2) Options for Individual Oak Tree (IOT) replacement mitigation (e.g. acorn to 15 gallon potted tree) and associated analysis of the implications for the In-lieu Fee Nexus study based on these options, and  
3) Oak resource mitigation requirements related to discretionary and ministerial projects.

Mitigation options should only be entertained for those projects that **absolutely cannot come to fruition without some deviation from Option A retention standards.** **Incentivizing** oak woodland retention rather than **requiring** retention is not an acceptable option, **nor is establishing a policy that allows 100 percent removal of oaks.**

For reasons cited in the Sandiford study (previously described), the following project alternatives should be considered as well.

**Project Alternative 2.** Redefinition of “Oak Woodland” to include other associated tree and shrub species (understory) to maintain wildlife habitat value; require mitigation to replace these elements as well.

**Project Alternative 3.** Redefinition of a Heritage Tree as 24” dbh—**if not for all oaks, for blue oaks** (*Quercus douglassi*). (A discussion follows that identifies why this change is essential.)

**The Standiford Study**<sup>11</sup> (NOTE: This study was relied upon for development of the County's IIG.)

<sup>10</sup> Standiford, R., et al. 2001. *Modeling the Effectiveness of Tree Planting to Mitigate Habitat Loss in Blue Oak Woodlands*. USDA Forest Service General Technical Report PSW-GTR-184, 2002.

<sup>11</sup> Standiford, R., et al. 2001. *Modeling the Effectiveness of Tree Planting to Mitigate Habitat Loss in Blue Oak Woodlands*. USDA Forest Service General Technical Report PSW-GTR-184, 2002.

This study modeled development of blue oak (*Quercus douglasii*) stand structure over 50 years after planting. The growth model was based on actual blue oak stand age and structure data (Standiford 1997). For this study, data was collected from 55 sample blue oak trees in a ten-year old blue oak plantation at the Sierra Foothill Research and Extension Center in Yuba County, California.

In this study, two different management regimes were utilized, a **high management** intensity scenario that assumed these stands would **average 2 inches dbh** after **10 years**, and there would be a 90 percent seedling survival. A **moderate management** scenario assumed that the stands would **average 1.5 inches dbh**, with an 85 percent seedling survival. **These assumptions are based on actual plantation growth** (McCreary 1990, 1995a, 1995b; McCreary and Lippit 1996; McCreary and Tecklin 1993) **and observations of operational restoration projects.**

For a planting density of **200 trees per acre 10 years** after planting (under a high management intensity), it was anticipated trees would average 2 inches dbh with 90 percent survival; under moderate intensity management, trees were anticipated to average 1.5 inches dbh with 85 percent survival, and **20 years** after planting: 2.5, 2.0, respectively.

**Canopy cover after 50 years was projected to range from 7 to 33 percent, with an average dbh after 50 years ranging from 3.4 to 4.1 inches. Even under fairly aggressive restoration efforts the largest mean diameter of the stand was quite small, only 3.9 inches, with a canopy cover of 33 percent.**

The following photographs serve to illustrate the growth rates for blue oak. The blue oaks depicted below are **10-16 years old**.<sup>12</sup>



- Large blue oaks are likely **153 to 390 years old** (White, 1966).
- Growth is extremely slow **or even ceases** after trees reach **26 inches dbh** (McDonald, 1985).<sup>13</sup> (**dbh**=diameter at breast height: 4 feet 6 inches from ground.) Thus, many blue oaks—although extremely old—**will never reach Heritage Tree status.**

<sup>12</sup> Phillips, R. L., et al. 1996. Blue Oak Seedlings May be Older than they Look. California Agriculture, May-June 1996. Available at: <http://ucanr.edu/repositoryfiles/ca5003p17-69761.pdf>

<sup>13</sup> Ritter, L.V. Undated. *Blue Oak Woodland*. California Wildlife Habitat Relationships System, California Department of Fish and Game, California Interagency Wildlife Task Group.



The blue oaks on this page illustrate a point. Although one has achieved Heritage Oak status, one can see the tremendous size required to arrive at Heritage Oak status.

This blue oak **IS NOT** a Heritage Oak, it is **32.5" dbh**.



This blue oak **IS** a Heritage oak **by one inch—37" dbh**.

Because blue oaks are slow growers, Tuolumne County has worked to establish a separate standard for blue oaks under their *old growth oaks* or “specimen oaks” category.<sup>14</sup> Given this acknowledgement that blue oaks—given their slow growth rates—warrant separate consideration, it seems reasonable that El Dorado County establish a separate size requirement for blue oak for Heritage Oak designation.

In addition, it is known blue oak regeneration is a problem in many areas of the State. In fact, “Few areas can be found in California where successful recruitment of blue oaks has occurred since the turn of the century” (Holland, 1976).<sup>15</sup>

For these reasons—slow growth, poor regeneration rates, and the fact that blue oak growth often ceases after trees reach 26” dbh—it is necessary to establish a threshold for Heritage Oak designation for blue oak that is less than the 36” dbh threshold now proposed. It is only reasonable (and necessary) to protect this resource with a separate Heritage Oak threshold designation.

#### ***Growth Estimates for Black and Live Oak***

The growth rates discussed previously for blue oak demonstrate what can be expected in terms of replant growth rates in the Western portion of El Dorado County. But other oak species exhibit slow growth rates as well. According to McDonald,<sup>16</sup> black oak (*Quercus kelloggii*) growth rates (from acorns) are estimated to be 3.4 inches dbh at 20 years and 9 inches dbh at 50 years. Interior live oak (*Quercus wislizeni*) is also reported as slow-growing.<sup>17</sup> These oaks, too—all oaks—would benefit from a redefinition of “Heritage Oak” to 24” dbh.

**Project Alternative 4.** Require sapling/specimen tree replacement for oak mitigation; eliminate the option for acorn planting.

**Project Alternative 5.** Establish a minimum retention standard for commercial firewood cutting operations, and define standards for site protection.

**Project Alternative 6.** Application of a more robust mitigation ratio. A revision of the mitigation ratios to a 2:1 mitigation ratio (at a minimum), and up to 5:1 in the case of environmentally sensitive areas, would motivate the developer to look more seriously at oak woodland retention, and would ensure the preservation of more oak woodland.

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<sup>14</sup> Michael Brandman Associates. 2012. Tuolumne County Biological Resources Review Guide. December 4, 2012; page 38. Available at: <http://www.tuolumnecounty.ca.gov/DocumentCenter/View/204>

<sup>15</sup> Ritter, L.V. Undated. Blue Oak Woodland. California Wildlife Habitat Relationships System, California Department of Fish and Game, California Interagency Wildlife Task Group. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=67340>

<sup>16</sup> McDonald, P.M. Undated. *California black oak (Quercus kelloggii)*. Available at: [http://www.na.fs.fed.us/pubs/silvics\\_manual/volume\\_2/quercus/kelloggii.htm](http://www.na.fs.fed.us/pubs/silvics_manual/volume_2/quercus/kelloggii.htm).

<sup>17</sup> Fryer, Janet L. 2012. *Quercus wislizeni*. In: Fire Effects Information System, [Online]. U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station, Fire Sciences Laboratory (Producer). Available: <http://www.fs.fed.us/database/feis/> [ 2015, February 6].

### Requests for Clarification

- Provide in the dEIR a **detailed map** of the Important Biological Corridors (IBCs) and Priority Conservation Areas (PCAs). This is necessary to provide the public with the information necessary to determine which parcels are included—or excluded—from the IBCs and PCAs.
- BRPU Decision Point 3: **“Determine whether to require undercrossings for future four- and six-lane roadway projects to provide for wildlife movement, and if so, determine specific standards for undercrossings (i.e., size, location).”**

It is crucial to provide wildlife undercrossings (or overcrossings) particularly (although not exclusively) where roadways cross streams, creeks, seasonal creeks, other drainages, and riparian areas. Wildlife are most likely to frequent, and most likely to attempt roadway crossings at these sites. Providing wildlife undercrossings/overcrossings supports both wildlife preservation and motorist safety. However, some clarification is necessary in this instance.

A motion was made by Supervisor Ranalli, seconded by Supervisor Frentzen to require, **when necessary**, undercrossings for future four (4)-, six (6)- and eight (8) - lane roadway projects to provide for wildlife movement.

Yes: 5 - Mikulaco, Veerkamp, Frentzen, Ranalli and Novasel

- Please specify in the dEIR the criteria that would meet the standard **“when necessary,”** established by the Board of Supervisors.

### Oak Planting, Conservation, etc.

Some issues need to be resolved to ensure appropriate mitigation planning. For instance, the following measures need to be overseen by a PAWTAC committee, and/or by the concurrence of CDFW, or a land conservation organization, or—in the case of the first item—through examination by a qualified arborist.

- ORMP, page 14: States that on-site planting is to be done *“to the satisfaction of the Planning Services Director.”*
- ORMP, page 14: Off-site planting: *“The applicant may be permitted to procure an off-site planting area for replacement planting.”*
- ORMP, page 16: *“Off-site mitigation may be accomplished through private agreements between the applicant and a private party.”*
- ORMP, page 21: The acquisition of parcels that constitute *“opportunities for active land management to be used to enhance or restore natural ecosystem processes.”*
- ORMP, page 21: *“Parcels that achieve multiple agency and community benefits.”*
- ORMP, page 24: the in-lieu fee payment **may be phased** to reflect timing of the oak resources removal/impact.”

### Assembly Bill 1600

It is important **not** to limit the in-lieu fee evaluation to the criteria included in AB 1600. It is vital to remember that other funding *“tools”* that lack the narrow findings required under AB 1600 can be enacted to acquire the necessary amount of mitigation funds: Propositions 62 and 218, for instance, can provide for a special tax (but require voter approval). And, while a fee study provides the quantified basis for imposition of fees, **the County is free to determine that the level of service it would like to provide cannot be met simply through the imposition of the impact fee.**

AB 1600 impact fees are often based on staff's *professional judgment or opinion* regarding potential impact—and on a County's growth projection—the basis for all conclusions must be supported by *substantial evidence*. Because El Dorado County's water supply is arguably "uncertain" at this time, it will be difficult to project potential growth realistically.

After all is said and done, it is important to remember that—while some individuals have requested that the in-lieu fees be kept as low as possible—this provision is intended to provide *viable mitigation*, and as such must be adequate to mitigate loss. **Affordability is not a criterion under which the effectiveness of mitigation can legitimately be degraded.**

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[dmallory@arb.ca.gov](mailto:dmallory@arb.ca.gov)

June 29, 2015

Re: Oak Woodland Greenhouse Gas Emissions

California Board of Forestry and Fire Protection and California Air Resources Board Members:

California Oaks would like to raise the incongruity of the accompanying photo relative to the Board of Forestry and Air Resources Board joint policy regarding meeting AB32 Scoping Plan forest targets. Although the state's forest greenhouse gas (GHG) focus may be on "timberland," in fact California's GHG policies and laws apply equally to all native "forest land."

The 2008 AB32 Scoping Plan recognized the significant contribution that terrestrial greenhouse gas storage will make in meeting the state's GHG emissions reduction goals: *"This plan also acknowledges the important role of terrestrial sequestration in our forests, rangelands, wetlands, and other land resources."* The Scoping Plan set a "no net loss" goal for forest land carbon sequestration and "stretch targets" of increasing forest land CO<sub>2</sub> storage by 2 million metric tonnes by 2020 and 5 MMT by 2050.



Blue oak firewood en route to Bay Area markets.

California Oaks would appreciate a cogent explanation of how the pictured blue oak firewood is consistent with the state's natural and working lands sector targets, given that unregulated/unmitigated oak tree cutting for "commercial purposes" results in: (1) the loss of carbon sequestration capacity; (2) produces carbon dioxide, methane and nitrous oxide emissions from burning the firewood.

Sincerely,

Janet Cobb, Executive Officer



*Preserving and perpetuating California's oak woodlands and wildlife habitats*

July 6, 2015

Community Development Agency  
 Long Range Planning Division  
 2850 Fairlane Court  
 Placerville, CA 95667  
[shawna.purvines@edcgov.us](mailto:shawna.purvines@edcgov.us)

Re: Biological Policy Update Project

Shawna Purvines, Principal Planner:

California Oaks appreciates the opportunity to comment on the Biological Policy Update Project. Review of the project finds that it fails to consider California Environmental Quality Act (CEQA) greenhouse gas (GHG) emission requirements concerning the conversion of native forest resources to another land use. Specifically, the DEIR provides no analysis regarding potential forest conversion carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>) and nitrous oxide (N<sub>2</sub>O) emission effects or proportional mitigation measures. This DEIR omission is contrary to California forest GHG policy and law.

The 2008 California Air Resources Board's AB32 Scoping Plan recognized the significant contribution that terrestrial greenhouse gas storage will make in meeting the state's GHG emissions reduction goals: "*This plan also acknowledges the important role of terrestrial sequestration in our forests, rangelands, wetlands, and other land resources.*"<sup>1</sup> Gov. Brown reiterated this point in his January 2015 inaugural address: "*And we must manage farm and rangelands, forests and wetlands so they can store carbon.*" Further, the CEQA Guidelines specifically address biogenic GHG emissions due to the conversion of forest land to non-forest use.<sup>2</sup> Biogenic GHG emissions are those derived from living plant cells. Fossil fuel GHG emissions are derived from living plant cells but are categorized differently.

The following 2009 Natural Resources Agency CEQA GHG Amendments response to comments quotation supports the contention that direct and indirect biogenic GHG emissions effects occur when native forest resources are converted. The response use of the word "and" clearly indicates that there are two potentially significant GHG emission effects to be analyzed regarding forest conversion to another land use. CEQA recognizes these secondary biogenic GHG emissions in the indirect effects language of Guidelines § 15358(2), "*... are later in time or farther removed in distance, but are still reasonably foreseeable.*"

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<sup>1</sup> The AB32 Scoping Plan set a "no net loss" goal for forest land carbon sequestration and "stretch targets" of increasing forest land CO<sub>2</sub> storage by 2 million metric tonnes by 2020 and 5 MMT by 2050.  
[http://www.climatechange.ca.gov/forestry/documents/AB32\\_BOF\\_Report\\_1.5.pdf](http://www.climatechange.ca.gov/forestry/documents/AB32_BOF_Report_1.5.pdf)

<sup>2</sup> Oak woodlands are defined as "forest land" by Public Resources Code Section 12220(g)(l). This section is referenced in CEQA Appendix G, forest resources checklist.

Natural Resources Agency Response 66-7

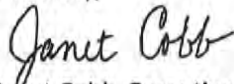
"As explained in the Initial Statement of Reasons, conversion of forest lands to non-forest uses may result in greenhouse gas emissions and reduce sequestration potential. (Initial Statement of Reasons, at pp. 63-64.)" See Exhibit A for a detailed CEQA discussion of forest conversion biogenic GHG emission effects.

When a native tree species is felled biomass carbon sequestration ceases. This immediate loss of biomass carbon sequestration capacity represents the direct forest conversion biogenic GHG emission effect. Upon disposal of the biomass carbon, the decomposition of biomass does in all cases result in indirect CO<sub>2</sub> and CH<sub>4</sub> emissions<sup>3</sup> and the combustion of biomass does in all cases result in indirect CO<sub>2</sub>, CH<sub>4</sub> and N<sub>2</sub>O emissions.<sup>4</sup> Thus, a CEQA oak woodlands GHG emission effects analysis requires carbon dioxide equivalent<sup>5</sup> estimations for both the direct effect from loss of carbon sequestration and the indirect effect due to biogenic emissions associated with oak forest biomass disposal. Notably, burning biomass emits GHG instantaneously, while biomass decomposition takes years and even decades. See Exhibits B, C and D for biomass decomposition and combustion biogenic GHG emission citations.

Summary

Substantial evidence has been presented that project biogenic GHG emissions due to forest land conversion will result in potentially significant environmental effects that have not been sufficiently analyzed or feasibly mitigated. The project has not made "a good-faith effort, based to the extent possible on scientific and factual data, to describe, calculate or estimate the amount of greenhouse gas emissions resulting from a project" (CEQA Guidelines § 15064.4(a)). Therefore the Biological Policy Update Project is deficient as an informational document, in that it fails to apprise decision-makers/public of the full range and intensity of the adverse GHG emission effects on the environment that may reasonably be expected if the project is approved.

Sincerely,



Janet Cobb, Executive Officer  
attachments (4)

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<sup>3</sup> "Anaerobic digestion, chemical process in which organic matter is broken down by microorganisms in the absence of oxygen, which results in the generation of carbon dioxide (CO<sub>2</sub>) and methane (CH<sub>4</sub>) .... Sugars, starches, and cellulose produce approximately equal amounts of methane and carbon dioxide." Encyclopædia Britannica (2013). <http://www.britannica.com/EBchecked/topic/22310/anaerobic-digestion>

<sup>4</sup> "... the combustion of biomass does in all cases result in net additions of CH<sub>4</sub> and N<sub>2</sub>O to the atmosphere, and therefore emissions of these two greenhouse gases as a result of biomass combustion should be accounted for in emission inventories under Scope 1" (at p. 11). World Resources Institute/World Business Council for Sustainable Development (2005). [http://www.ghgprotocol.org/files/ghgp/tools/Stationary\\_Combustion\\_Guidance\\_final.pdf](http://www.ghgprotocol.org/files/ghgp/tools/Stationary_Combustion_Guidance_final.pdf)

<sup>5</sup> AB32 defines "Carbon dioxide equivalent" to mean ... "the amount of carbon dioxide by weight that would produce the same global warming impact as a given weight of another greenhouse gas, based on the best available science, including from the Intergovernmental Panel on Climate Change." The IPCC's best available science lists methane as having 34 times more global warming impact than carbon dioxide over a 100-year time horizon and nitrous oxide as having 298 times more global warming impact than carbon dioxide over the same period. Myhre, G., D. et al., 2013: *Anthropogenic and Natural Radiative Forcing*. In: *Climate Change 2013: The Physical Science Basis* (at pp. 713, 714).

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Letter 97

Kari Fisher  
Associate Counsel  
California Farm Bureau Federation

Tim Schmelzer  
Legislative and Regulatory Representative  
Wine Institute

November 10, 2009

**Comment 97-1**

Comment is introductory in nature and expresses the organizations' concerns on the guidance for analysis and mitigation for GHG emissions in the proposed amendments. The Natural Resources Agency should reevaluate and revise Appendix G, Section II: Agriculture prior to adopting the proposed amendments.

**Response 97-1**

The comments object generally to the inclusion of forestry resources among the questions in Appendix G related to agricultural resources. The Initial Statement of Reasons explained the necessity of the added questions:

The proposed amendments would add several questions addressing forest resources in the section on Agricultural Resources. Forestry questions are appropriately addressed in the Appendix G checklist for several reasons. First, forests and forest resources are directly linked to both GHG emissions and efforts to reduce those emissions. For example, conversion of forests to non-forest uses may result in direct emissions of GHG emissions. (L. Wayburn et al., A Programmatic Approach to the Forest Sector in AB32, Pacific Forest Trust (May 2008); see also California Energy Commission Baseline GHG Emissions for Forest, Range, and Agricultural Lands in California (March, 2004) at p. 19.) Such conversion would also remove existing carbon stock (i.e., carbon stored in vegetation), as well as a significant carbon sink (i.e., rather than emitting GHGs, forests remove GHGs from the atmosphere). (Scoping Plan, Appendix C, at p. C-168.) Thus, such conversions are an indication of potential GHG emissions. Changes in forest land or timberland zoning may also ultimately lead to conversions, which could result in GHG emissions, aesthetic impacts, impacts to biological resources and water quality impacts, among others. Thus, these additions are reasonably necessary to ensure that lead agencies consider the full range of potential impacts in their initial studies. In the same

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way that an EIR must address conversion of prime agricultural land or wetlands as part of a project (addressing the whole of the action requires analyzing land clearance in advance of project development), so should it analyze forest removal. [¶] During OPR's public involvement process, some commenters suggested that conversion of forest or timber lands to agricultural uses should not be addressed in the Initial Study checklist. (Letter from California Farm Bureau Federation to OPR, February 2, 2009; Letter from County of Napa, Conservation, Development and Planning Department, to OPR, January 26, 2009.) As explained above, the purpose of the Proposed Amendments is to implement the Legislative directive to develop Guidelines on the analysis and mitigation of GHG emissions. Although some agricultural uses also provide carbon sequestration values, most agricultural uses do not provide as much sequestration as forest resources. (Climate Action Team, Carbon Sequestration (2009), Chapter 3.3.8 at p. 3.21; California Energy Commission, Baseline GHG Emissions for Forest, Range, and Agricultural Lands in California (2004), at p. 2.) Therefore, such a project could result in a net increase in GHG emissions, among other potential impacts. Thus, such potential impacts are appropriately addressed in the Initial Study checklist.

(Initial Statement of Reasons, at pp. 63-64.) Specific objections to the questions related to forestry are addressed below.

#### **Comment 97-2**

Amendments to Appendix G, Section II: Agriculture, adding forest resources, distort the section from its original intent of protecting agriculture resources and will subject projects to extensive and unnecessary analysis beyond what is already legally required. Amendments to Section VII: Greenhouse Gas Emissions will adequately address any significant impact a project may have on greenhouse gas emissions.

#### **Response 97-2**

The comment's assertion that the addition of questions related to forestry "specifically target[s] the establishment of [agricultural] resources for extensive and unnecessary analysis above and beyond what is already legally required," is incorrect in several respects. First, the addition of questions related to forestry does not target the establishment of agricultural operations. The only mention in the Initial Statement of Reasons of agricultural operations in relation to those questions was in response to comments that the Office of Planning and Research received indicating that only conversions of forests to non-agricultural purposes should be analyzed. Moreover, the text of the questions themselves demonstrate that the concern is *any* conversion of forests, not just conversions to other agricultural operations.

Second, analysis of impacts to forestry resources is already required. For example, the Legislature has declared that "forest resources and timberlands of the state are among the most valuable of the natural resources of the state" and that such resources "furnish high-quality timber, recreational opportunities,

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and aesthetic enjoyment while providing watershed protection and maintaining fisheries and wildlife.” (Public Resources Code, § 4512(a)-(b).) Because CEQA defines “environment” to include “land, air, water, minerals, flora, fauna, noise, [and] objects of historic or aesthetic significance” (Public Resources Code, section 21060.5), and because forest resources have been declared to be “the most valuable of the natural resources of the state,” projects affecting such resources would have to be analyzed, whether or not specific questions relating to forestry resources were included in Appendix G. (*Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109 (“in preparing an EIR, the agency must consider and resolve every fair argument that can be made about the possible significant environmental effects of a project, irrespective of whether an established threshold of significance has been met with respect to any given effect”).) If effect, by suggesting that the Appendix G questions be limited to conversions to “non-agricultural uses,” the comment asks the Natural Resources Agency to adopt changes that are inconsistent with CEQA, which it cannot do.

The comment’s suggestion that the questions related to greenhouse gas emissions are sufficient to address impacts related to greenhouse gas emissions does not justify deletion of the questions related to forestry resources. As explained in the Initial Statement of Reasons, not only do forest conversions result in greenhouse gas emissions, but may also “remove existing carbon stock (i.e., carbon stored in vegetation), as well as a significant carbon sink (i.e., rather than emitting GHGs, forests remove GHGs from the atmosphere).” Further, conversions may lead to “aesthetic impacts, impacts to biological resources and water quality impacts, among others.” The questions related to greenhouse gas emissions would not address such impacts. Thus, the addition of forestry questions to Appendix G is appropriate both pursuant to SB97 and the Natural Resources Agency’s general authority to update the CEQA Guidelines pursuant to Public Resources Code section 21083(f). The Natural Resources Agency, therefore, rejects the suggestion to removal all forestry questions from Appendix G.

#### **Comment 97-3**

The amendment adding forest resources to Appendix G: Section II loses sight of the intent and purpose of the Legislature’s directive in SB 97. The amendments do not further the directive or intent of SB 97 and unfairly attack and burden all types of agriculture, both crop lands and forest lands.

#### **Response 97-3**

SB97 called for guidance on the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions. (Public Resources Code, § 21083.05.) As explained in the Initial Statement of Reasons, forest conversions may result in direct greenhouse gas emissions. Further, such conversions remove existing forest stock and the potential for further carbon sequestration. (Initial Statement of Reasons, at p. 63.) Sequestration is recognized as a key mitigation strategy in the Air Resources Board’s Scoping Plan. (Scoping Plan, Appendix C, at p. C-168.) Thus, the Natural Resources Agency disagrees with the comment, and finds that questions in Appendix G related to forestry are reasonably necessary to effectuate the purpose of SB97. Notably, such questions are also supported by the Natural Resources

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Agency's more general authority to update the CEQA Guidelines every two years. (Public Resources Code, § 21083(f).)

The Natural Resources Agency also disagrees that the questions related to forestry "unfairly attack and burden all types of agriculture." Nothing in the text of the proposed amendments or the Initial Statement of Reasons demonstrate any effort to attack, or otherwise disadvantage, any agricultural use. Questions related to forestry impacts are addressed to any forest conversions, not just those resulting from agricultural operations. Further, the questions do not unfairly burden agriculture. To the extent an agricultural use requires a discretionary approval, analysis of any potentially significant impacts to forestry resources would already be required, as explained in Response 97-2, above.

#### **Comment 97-4**

The amendments adding forest resources to Appendix G: Section II go beyond the scope of mandate by SB 97 and will adversely affect California's agricultural industry. The only alternative is to recognize the loss of forest land or conversion of forest is only significant when it results in a non-agricultural use.

#### **Response 97-4**

The Natural Resources Agency finds that the addition of questions related to forest impacts are reasonably necessary to carry out the directive both in SB97 and the general obligation to update the CEQA Guidelines, as described in both the Initial Statement of Reasons and Responses 97-2 and 97-3, above.

Though the comment states "the proposed changes in Section II [of Appendix G] ... are highly onerous to the State's agricultural industry," the comment provides no evidence to support that claim. On the contrary, as explained in Responses 97-2 and 97-3, above, CEQA already requires analysis of forestry impacts, regardless of whether Appendix G specifically suggests such analysis.

The Natural Resources Agency declines to revise the forestry-related Appendix G questions as suggested. As explained in Response 97-2, above, exempting agricultural projects from the requirement to analyze impacts to forest resources is inconsistent with CEQA.

## Exhibit B

### Forest Land Conversion Biomass Combustion and Decomposition GHG Emissions

#### California Air Resources Board

"California is committed to reducing emissions of CO<sub>2</sub>, which is the most abundant greenhouse gas and drives long-term climate change. However, short-lived climate pollutants [methane, etc.] have been shown to account for 30-40 percent of global warming experienced to date. Immediate and significant reduction of both CO<sub>2</sub> and short-lived climate pollutants is needed to stabilize global warming and avoid catastrophic climate change .... The atmospheric concentration of methane is growing as a result of human activities in the agricultural, waste treatment, and oil and gas sectors." *Reducing Short-Lived Climate Pollutants in California*, 2014.

#### UN Framework Convention on Climate, Deforestation Definition

"Those practices or processes that result in the change of forested lands to non-forest uses. This is often cited as one of the major causes of the enhanced greenhouse effect for two reasons: 1) the burning or decomposition of the wood releases carbon dioxide and 2) trees that once removed carbon dioxide from the atmosphere in the process of photosynthesis are no longer present and contributing to carbon storage." [http://www.gofc-gold.uni-jena.de/redd/sourcebook/Sourcebook\\_Version\\_June\\_2008\\_COP13.pdf](http://www.gofc-gold.uni-jena.de/redd/sourcebook/Sourcebook_Version_June_2008_COP13.pdf)

#### Stanford University Engineering

Biomass burning also includes the combustion of agricultural and lumber waste for energy production. Such power generation often is promoted as a "sustainable" alternative to burning fossil fuels. And that's partly true as far as it goes. It is sustainable, in the sense that the fuel can be grown, processed and converted to energy on a cyclic basis. But the thermal and pollution effects of its combustion - in any form - can't be discounted, [Mark] Jacobson said.

"The bottom line is that biomass burning is neither clean nor climate-neutral," he said. "If you're serious about addressing global warming, you have to deal with biomass burning as well." [engineering.stanford.edu/news/stanford-engineers-study-shows-effects-biomass-burning-climate-health](http://engineering.stanford.edu/news/stanford-engineers-study-shows-effects-biomass-burning-climate-health)

Jacobson, M. Z. (2014). *Effects of biomass burning on climate, accounting for heat and moisture fluxes, black and brown carbon, and cloud absorption effects.*

#### European Geosciences Union

"Biomass burning is a significant global source of gaseous and particulate matter emissions to the troposphere. Emissions from biomass burning are known to be a source of greenhouse gases such as carbon dioxide, methane and nitrous oxide" (at 10457). *A review of biomass burning emissions, part I: gaseous emissions of carbon monoxide, methane, volatile organic compounds, and nitrogen containing compounds.* R. Koppmann, K. von Czapiewski and J. S. Reid, 2005. <http://www.atmos-chem-phys-discuss.net/5/10455/2005/acpd-5-10455-2005-print.pdf>

#### Phoenix Energy

"As wood starts to decompose it releases roughly equal amounts of methane (CH<sub>4</sub>) and carbon dioxide (CO<sub>2</sub>)." 2014. <http://www.phoenixenergy.net/powerplan/environment>

#### Macpherson Energy Corporation

"Rotting produces a mixture of up to 50 percent CH<sub>4</sub>, while open burning produces 5 to 10 percent CH<sub>4</sub>." 2014. <http://macphersonenergy.com/mt-poso-conversion.html>

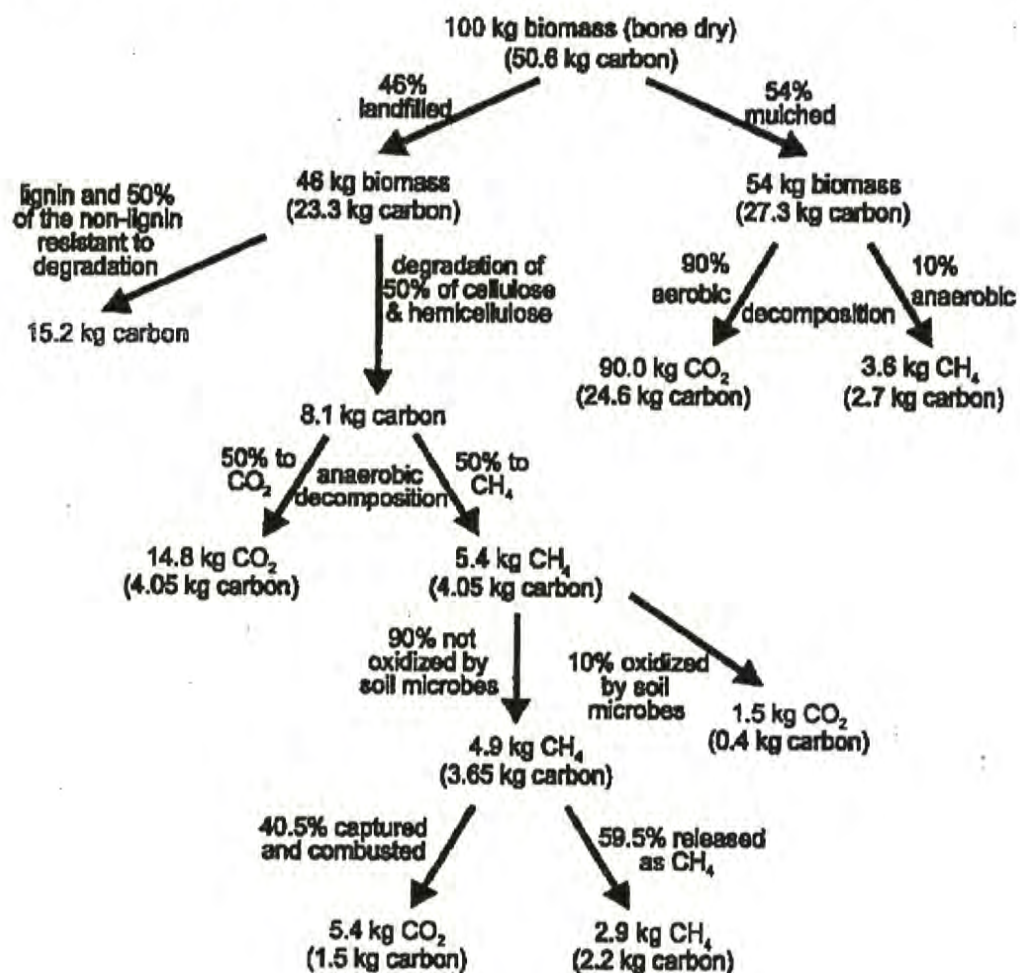


## Exhibit C

### Biomass Decomposition Greenhouse Gas Emissions

Biomass presentation by Alex Hobbs, PhD, PE to the Sierra Club Forum at North Carolina State University (November 24, 2009).

- If 100 kilograms of bone dry biomass were dispersed to a controlled landfill (46%) and mulched (54%) greenhouse gas emissions would be: 111.7 kilograms of CO<sub>2</sub> emissions + 6.5 kilograms of CH<sub>4</sub> emissions = 274.2 kilograms CO<sub>2</sub>-equivalent emissions.



Landfill: 46 kg biomass/23.3 kg CO = 21.7 kg CO<sub>2</sub> + 2.9 kg CH<sub>4</sub> = 94.2 kg CO<sub>2</sub>-equivalent.

Mulch: 54 kg biomass/27.3 kg CO = 90 kg CO<sub>2</sub> + 3.6 kg CH<sub>4</sub> = 180 kg CO<sub>2</sub>-equivalent.

Total: 100 kg biomass/50.6 kg CO = 111.7 kg CO<sub>2</sub> + 6.5 kg CH<sub>4</sub> = 274.2 kg CO<sub>2</sub>-equivalent.

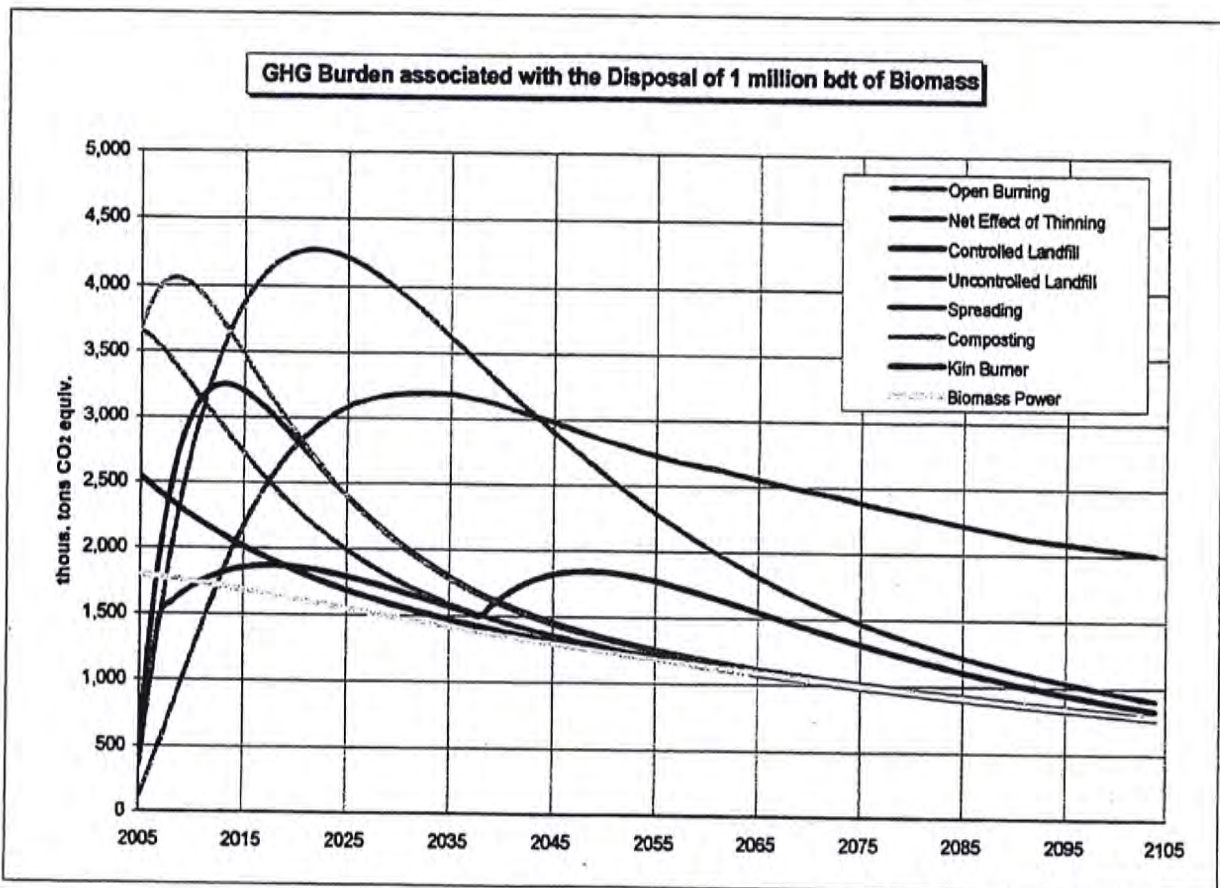
## Exhibit D

### Biomass Disposal Greenhouse Gas Emissions

The following chart illustrates the relative biogenic GHG emission effects from common methods of vegetation (biomass) disposal.<sup>1</sup> However, for a variety of reasons these chart values are too unrefined to be applied for project site-specific biogenic GHG emissions analysis.

Uncontrolled landfill disposal produces the greatest biomass GHG emissions followed by composting, open burning, mulching, forest thinning, firewood burning, controlled landfills and biomass power. Notably, biomass power emissions do not include methane and nitrous oxide emissions. The chart demonstrates that peak greenhouse gas emissions vary substantially depending on the means of biomass disposal.

Terminology: Net effect of thinning emissions apply to forest thinning emissions; Spreading emissions are equivalent to mulching emissions and Kiln Burner emissions are analogous to fireplace burning emissions.



Graphic: Gregory Morris, PhD. *Bioenergy and Greenhouse Gases*. Published by Pacific Institute (2008).

<sup>1</sup> One bone dry ton (bdt) is a volume of wood chips (or other bulk material) that would weigh one ton (2000 pounds, or 0.9072 metric tons) if all the moisture content was removed.

Van Dyke Public Comment for Biological Resources NOP, 8/17/15

An NOP signals that the drafted policies have been vetted and are ready to be analyzed in the EIR. Yet the multiple outreach meetings largely disregarded public comment. The removal of Option A to allow 100% oak tree removal may please developers and staff, but it is NOT supported by residents. Initiation of this EIR is premature if the drafted policies do not yet reflect the will of County residents. Please reconsider the Project Description and reissue this NOP.

Additionally, I would like to see the following concerns addressed regarding the biological policies as drafted:

1. The Project cannot be reviewed 'in a vacuum', and changes resulting from the TGPA/ZOU must be included in the cumulative impacts analysis if that project has not been concluded or is tied up in litigation.

Some of the TGPA/ZOU changes that have not been reviewed relative to removal of the Option A retention standards are:

- a. reduced open space requirements (ordinance 17.28.050B)
  - b. increased hillside development (policy 7.1.2.1)
  - c. reduced riparian setback (ordinance 17.30.030G3d)
  - d. allowance for development within the riparian setback (ordinance 17.30.030G5)
  - e. intensification of zoning (ie, minimum 20 acre parcels changed to minimum 10 acre zoning)
  - f. expanded uses within zone districts (use matrices throughout the ZOU: 17.21.020, 17.22.020...)
  - g. expanded uses under the Home Occupancy Ordinance
  - h. expanded uses into Rural Regions (Table 2-1, Policy 2.2.1.1)
  - i. expanded exemptions to the biological policies, such as agricultural activities, hillside development , and underground utilities(ordinance 17.30.060D)
  - j. reduced agricultural setback requirements (policies 8.1.3.1/8.1.3.2)
  - k. the 2004 General Plan impacts that are no longer being mitigated -see 2. below.
2. Any elements of the 2004 General Plan that counted on mitigations now being eliminated must be factored back in to the impact analysis. For example, if constraints to development in 2004 included open space protections and restricting hillside development, and those mitigations are revised, the impact of having the Community Regions expanded by some 300 parcels via the 2004 Gen Plan will have to be reviewed relative to the removal of Option A and mitigation measures CO-A, -L, -M, -N, -O and -P.
  3. Neither the NOP nor the ROI's it is based on (ROI 118-2015 & 109-2015) reflect the June 22<sup>nd</sup> motion of the Board to include oak tree retention standards in the alternatives (minutes attached). In the July 14<sup>th</sup> hearing staff asserted they needed further direction, and it appears none has been given. The project description is flawed and should be revised, possibly with a new NOP circulated for public review.
  4. How can Option A be deleted when it was required by the 2005 court decision that lifted the writ of mandate? This may necessitate a different/additional analysis.
  5. Broaden the impact analysis of heritage tree designation to potentially protect trees 24" in diameter and greater, which would be in alignment with other similarly rural counties. If only 36" is analyzed as proposed, "lesser" options will not be possible; this process is supposed to be helping to inform the Board's decision.
  6. Fully analyze acorn planting as a mitigation, per Board direction June 22<sup>nd</sup>. While acorn planting may be excellent for restoration and supported by the Kuehl Bill, it is not utilized for actual *replacement mitigation* in other counties. Provide monitoring results from other Counties as well as El Dorado County.

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LONG RANGE PLANNING

7. Provide analysis for the impact of allowing conservation easements to occur within Community Regions and Rural Centers. The drafted policies currently exclude this, but there are MANY acres of oak woodland and other habitat within these regions that will be subject to 100% oak removal and fragmentation. Provide accurate and detailed mapping showing where oak woodlands, rare plant habitat, and migratory trails exist.
8. Discuss what mitigations would be required to encourage regeneration of oak trees if cattle grazing is to be allowed concurrent with conservation easements.
9. Policy 7.4.2.8 currently requires mapping of five specific major habitats to be updated every three years, to identify the amount of important habitat removed because of new development. This requirement has not been complied with and is now being deleted. Why?
  - a. New maps that are accurate, detailed, and legible, should be provided with a comparison to the last maps done (10 years ago?)
  - b. Has *not* having these updates done as required contributed to connectivity and habitat loss?
  - c. Rather than remove the requirement, would an effective solution be to actually comply with it?
10. It is not clear why ministerial development, or agricultural activities, or low income housing, should be exempt from the biological policy requirements- please discuss this, and provide analysis of impacts if they were NOT to be exempted.
11. The NOP (page 7) mentions an Oak Resources Conservation ordinance that is "to be developed" for adoption with the ORMP. This is a vague reference to an important document that the public has not seen. If the retention standards lacked specificity for inclusion, surely this does too, and I would object to this EIR 'blessing' an unknown document.
12. These policies will allow an increase in the conversion of biological habitat into residential use - an impact on Air Quality, Greenhouse Gases, Transportation and Noise seems likely. These categories should not be exempt in this EIR.
13. County staff has expressed to the public that the policies proposed are essentially consistent<sup>1</sup> with the current General Plan. If this were true an EIR would not be necessary. The change to allow 100% tree removal is a significant change that has not been made clear to the public. It must be clarified in the EIR and not buried with declarations of '*there's not really any change*'. There must be a true good faith effort to communicate the policy changes and encourage public discourse in order to be CEQA compliant.
14. If the comments submitted for this NOP reflect general dissatisfaction in the policies themselves, please revisit the drafted policies *prior* to initiating a costly EIR.

A few policy references are attached below for convenience.

Ellen Van Dyke, Rescue

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<sup>1</sup> Principle Planner, Purvines, Mountain Dem article "County updating General Plan biological policies"

For Reference:

**6/22/15 Motion of the Board requiring oak tree retention standards be included in the EIR:**

Public Comment: E. Vandyke, J. Buetler, K. Payne, R. Hargrove, L. Christensen, C. Louis, R. Louis, A. Cantwell, J. Davies

A motion was made by Supervisor Ranalli, seconded by Supervisor Veerkamp to Approve this matter, Adopt Resolution's 108-2015 and 109-2015 and direct staff to:

Consider project alternatives as part of the environmental review process including:

- 1) Adding oak resource retention standards;
- 2) Options for Individual Oak Tree (IOT) replacement mitigation (e.g. acorn to 15 gallon potted tree) and associated analysis of the implications for the In-lieu Fee Nexus study based on these options, and
- 3) Oak resource mitigation requirements related to discretionary and ministerial projects.

Yes: 4 - Mikulaco, Veerkamp, Frentzen and Ranalli

Absent: 1 - Novasel

**From the 2005 court decision that lifted the 1999 writ of mandate against the county:**

PROCEEDINGS: MOTION FOR REVIEW OF COUNTY'S RETURN TO WRIT OF MANDATE-RULING

process. Thus, issues concerning changes made in former versions of the General Plan are no longer relevant.

Moreover, the County has gone well beyond the direction of the 1999 writ. It has provided a new analysis of the impacts of replacement versus retention of oak woodlands, and it has also eliminated the "replacement" option from the policy as approved. The new, revised canopy protection measure keeps the retention percentages that were adopted in 1996, eliminates replacement as an option in lieu of retention, and requires a replacement of any canopy not required to be retained under the policy. In addition, the current DEIR proposed an alternative to the retention requirements, "Option B", which allows the County to require a project applicant to provide funding for woodland preservation in lieu of on-site canopy retention. The preservation would be at a 2:1 ratio and would allow the County to pool funds and apply them towards acquisition and restoration projects that would preserve larger contiguous blocks of habitat. The County adopted other new mitigation measures regarding oak woodland habitat. (See Mitigation Measures 5.12-1(e) and 5.12-1(g).)

**Policy 7.4.1.6** All development projects involving discretionary review shall be designed to avoid disturbance or fragmentation of important habitats to the extent reasonably feasible. Where avoidance is not possible, the development shall be required to fully mitigate the effects of important habitat loss and fragmentation. Mitigation shall be defined in the Integrated Natural Resources Management Plan (INRMP) (see Policy 7.4.2.8 and Implementation Measure CO-M).

The County Agricultural Commission, Plant and Wildlife Technical Advisory Committee, representatives of the agricultural community, academia, and other stakeholders shall be involved and consulted in defining the important habitats of the County and in the creation and implementation of the INRMP.

**MEASURE CO-A**

Review the Zoning Ordinance (Title 17 of the El Dorado County Code) to identify revisions that accomplish the following:

- A. Incorporate tree canopy coverage standards outlined in Policy 7.4.4.4;
- B. Develop standards for use of native plants in landscaping [Policy 7.4.5.2];
- C. Establish Historic Design Control Combining Zone District and design guidelines for reconstruction and construction of new buildings and the demolition of existing buildings in such districts. Adopt an ordinance amendment implementing historic design review requirements and recordation procedures. [Policies 7.5.2.1, 7.5.2.2, and 7.5.2.4];
- D. Develop buffer standards for new non-mining land uses next to existing mining operations [Policy 7.2.2.3];
- E. Develop standards for minimizing erosion and sedimentation associated with earthwork and grading [Policy 7.1.2.2].

**MEASURE CO-U**

Mitigation under Policy 7.4.1.6 shall include providing sufficient funding to the County's conservation fund to acquire and protect important habitat at a minimum 2:1 ratio. The cost associated with acquisition, restoration, and management of the habitat protected shall be included in the mitigation fee. For larger development projects (i.e., those that exceed a total of 10 acres), in addition to contributing to the conservation fund at a minimum 2:1 ratio, onsite preservation and/or restoration of important habitat shall be required at a 1:1 ratio. Impacts on important habitat and mitigation requirements shall be addressed in a Biological Resources Study and an Important Habitat Mitigation Program (described below).

- A. Biological Resources Study. The County shall adopt biological resource assessment standards that apply to all discretionary projects that would result in disturbance of soil and native vegetation in areas that include important habitat as defined in the INRMP. The assessment of the project site must be in the form of an independent Biological Resources Study, and must be completed by a qualified biologist. The evaluation shall quantify the amount of important habitat, by habitat type, as defined in the General Plan and delineated on maps included in the INRMP. The Biological Resources Study shall also address the potential for the project to adversely affect important habitat through conversion or fragmentation. This requirement shall not apply to projects that are on lands that either (1) have already been the subject of a study and for which all mitigation requirements are being implemented or (2) have been evaluated by the County and found to not possess any important habitat resources.
- B. Important Habitat Mitigation Program. The Biological Resource Study shall include an Important Habitat Mitigation Program that identifies options that would avoid, minimize, or compensate for impacts on important habitats in compliance with the standards of the INRMP and the General Plan. All mitigation programs shall include a monitoring and reporting component requiring reports to the County not less than once each year for a period of not less than 10 years. The report will include a description of the lands included in the mitigation program (including location and size), a summary of the evaluation criteria established at the time the mitigation program was approved, an evaluation of the mitigation program based on those criteria, and recommendations for action during the following year. The County shall adopt standards for evaluating mitigation programs proposed as part of the Biological Resources Study described above. The standards shall ensure that the mitigation reduces direct and cumulative impacts of proposed development on important habitats to less than significant levels in accordance with CEQA thresholds.

**Policy 7.4.4.4** For all new development projects (not including agricultural cultivation and actions pursuant to an approved Fire Safe Plan necessary to protect existing structures, both of which are exempt from this policy) that would result in soil disturbance on parcels that (1) are over an acre and have at least 1 percent total canopy cover or (2) are less than an acre and have at least 10 percent total canopy cover by woodlands habitats as defined in this General Plan and determined from base line aerial photography or by site survey performed by a qualified biologist or licensed arborist, the County shall require one of two mitigation options: (1) the project applicant shall adhere to the tree canopy retention and replacement standards described below; or (2) the project applicant shall contribute to the County's Integrated Natural Resources Management Plan (INRMP) conservation fund described in Policy 7.4.2.8.

**Option A**

The County shall apply the following tree canopy retention standards:

The County shall apply the following tree canopy retention standards: <b>Percent Existing Canopy Cover</b>	<b>Canopy Cover to be Retained</b>
80–100	60% of existing canopy
60–79	70% of existing canopy
40–59	80% of existing canopy
20–39	85% of existing canopy
10-19	90% of existing canopy
1-9 for parcels > 1 acre	90% of existing canopy

Under Option A, the project applicant shall also replace woodland habitat removed at 1:1 ratio. Impacts on woodland habitat and mitigation requirements shall be addressed in a Biological Resources Study and Important Habitat Mitigation Plan as described in Policy 7.4.2.8. Woodland replacement shall be based on a formula, developed by the County, that accounts for the number of trees and acreage affected.

*Article excerpt referenced in footnote 1:*

# Mountain Democrat

PLACERVILLE, CALIFORNIA

News

## County updating General Plan’s biological policies

By **Chris Daley** From page A1 | July 27, 2015

### Public hearings will be set

El Dorado County’s 2006 Oak Woodlands Management Plan, newly re-christened as the Oak Resources Management Plan, is once again getting a makeover.

Developed by the Long Range Planning Division of the Community Development Agency, the biological policy update project’s new resolution of intention was presented by Principal Planner Shawna Purvines at the Board of Supervisors’ July 14 meeting. Initially slated on the Consent Calendar, the items were moved off for discussion at the urging of local resident/activist Jamie Beutler and others.

As explained by Purvines, the new ROI was needed because an earlier version “didn’t accurately reflect the language of dealing with the ORMP and Rare Plants.” Both are part of the General Plan’s Chapter 7 –

Conservation and Open Space Element – and the issue goes back nearly a decade. The original Oak Woodlands Management Plan was overturned by a court decision, in part, because the county did not adequately address mitigation methods regarding removal or disruption of oaks and oak woodlands in its environmental impact report.

⋮

The recommended amendment removes the A and B Options in favor of “an incentive-based approach.”

In separate e-mails and copies of e-mails, Purvines wrote to the Mountain Democrat and to the Green Valley Alliance’s Ellen Van Dyke. She said in part, “The board’s decision to revise General Plan policy 7.4.4.4 related to oaks is consistent with the 2004 General Plan and essentially consistent with the 1996 General Plan which both included the options of retention ‘or’ mitigation.”