

3.2 STATE AND LOCAL AGENCIES

Comment Letter 1

6/9/2016

Edcgov.us Mail - RE: DEIR for General Plan Updates



Shawna Purvines <shawna.purvines@edcgov.us>

RE: DEIR for General Plan Updates

Brennan, Whitney@Tahoe <Whitney.Brennan@tahoe.ca.gov>
To: Shawna Purvines <shawna.purvines@edcgov.us>

Fri, Jul 8, 2016 at 3:56 PM

Thank you!

Whitney Brennan, PhD
Wildlife Biologist, California Tahoe Conservancy
Whitney.Brennan@tahoe.ca.gov
(530) 543-6054

From: Shawna Purvines [mailto:shawna.purvines@edcgov.us]
Sent: Friday, July 08, 2016 3:13 PM
To: Brennan, Whitney@Tahoe <Whitney.Brennan@Tahoe.ca.gov>
Subject: Re: DEIR for General Plan Updates

Hi Whitney,

Just to be sure I understand what you are asking: If you currently have two lots and want to move a lot line changing the size or shape of the two lots, a Boundary Line Amendment application would be filed with the County and approved under a ministerial review.

However, if your intent is to split an existing single parcel into two parcels you would need to file with the County a parcel map application which would require a discretionary review. If you would like to give me a call to discuss further my direct line is 530-621-5362.

For reference, the General Plan defines discretionary approval as follows:

Discretionary Decision As used in CEQA, an action taken by a governmental agency that calls for the exercise of judgement in deciding whether to approve and/or how to carry out a project. Includes such activities as the subdivision of property, the granting of general plan amendments or zone changes, the approval of specific plans, the approval of Williamson Act contracts, the granting of variances, special use permits, and others.

Discretionary Project A project which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.

<https://mail.google.com/mail/u/0/?ui=2&ik=15063325&as=view=js&ca=Blc%20Policy%20Update%2FBIO%20EIR%2FPublic-Agency%20Comments%20...> 1/3

1-1

09/2016

Edgocove Mail - RE: DER for General Plan Update

Hope this helps
Sincerely
Shawna Purvines

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1-1
Cont.

On Fri, Jul 8, 2016 at 2:49 PM, Brennan, Whitney@Tahoe <Whitney.Brennan@tahoe.ca.gov> wrote:

Hi-

What is included under development projects that require discretionary approval? Does this include lot line adjustments (e.g. if we want to sell of only part of a lot)? Thanks!

Whitney Brennan, PhD
Wildlife Biologist, California Tahoe Conservancy
Whitney.Brennan@tahoe.ca.gov
(530) 543-6054

Every Californian should conserve water. Find out how at:



SaveOurWater.com · Drought.CA.gov

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Shawna L. Purvines
Principal Planner

County of El Dorado
Community Development Agency

<https://mail.google.com/mail/u/0/?ui=2&ik=16063325&asview=pt&cat=Bio%20Policy%20Update%20FBIO%20DER%20Public-Agency%20Comments%20...> 2/3

8/9/2016

Edcgov.us Mail - RE: DEIR for General Plan Updates

Long Range Planning
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<https://mail.google.com/mail/b/219u/0?ui=2&ik=150a3325ea&view=pt&cat=Bio%20Policy%20Update%20EIR%20Public-Agency%20Comments%20...> 3/3

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Response to Comment Letter 1

California Tahoe Conservancy

Whitney Brennan, PhD

July 8, 2016

1-1 This comment requests clarification regarding which actions are discretionary and which are ministerial, specifically lot line adjustments and selling a portion of a lot.

This comment does not question the accuracy or adequacy of the Environmental Impact Report (EIR). Ms. Purvines responded to the commenter providing the applicable General Plan definitions of discretionary and ministerial actions and stating that lot line adjustments would be processed as ministerial actions, whereas a proposal to split an existing single parcel into two parcels would be processed as a discretionary action.

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Comment Letter 2



Central Valley Regional Water Quality Control Board

29 July 2016

EL DORADO COUNTY RECEIVED

Shawna Purvines
El Dorado County
2850 Fairlane Court
Placerville, CA 95667

AUG 03 2016

LONG RANGE PLANNING

CERTIFIED MAIL
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COMMENTS TO REQUEST FOR REVIEW FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, EL DORADO COUNTY BIOLOGICAL RESOURCES POLICY UPDATE, OAK RESOURCES MANAGEMENT PLAN AND ORDINANCE PROJECT, SCH# 2015072031, EL DORADO COUNTY

Pursuant to the State Clearinghouse's 30 June 2016 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the Request for Review for the Draft Environment Impact Report for the El Dorado County Biological Resources Policy Update, Oak Resources Management Plan and Ordinance Project, located in El Dorado County.

2-1

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

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The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan

KARL E. LONGLEY ScD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCEE, EXECUTIVE OFFICER

11020 Sun Center Drive #200, Rancho Cordova, CA 95670 | www.waterboards.ca.gov/centralvalley



EI Dorado County Biological Resources - 2 -
Policy Update, Oak Resources Management
Plan and Ordinance Project
EI Dorado County

29 July 2016

amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues.

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For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/.

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Policy is available on page IV-15.01 at:
http://www.waterboards.ca.gov/centralvalleywater_issues/basin_plans/sacsjr.pdf

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In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to

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El Dorado County Biological Resources - 3 -
Policy Update, Oak Resources Management
Plan and Ordinance Project
El Dorado County

29 July 2016

restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the

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¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

El Dorado County Biological Resources - 4 -
Policy Update, Oak Resources Management
Plan and Ordinance Project
El Dorado County

29 July 2016

United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements – Discharges to Waters of the State

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml.

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website at:

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El Dorado County Biological Resources - 5 -
Policy Update, Oak Resources Management
Plan and Ordinance Project
El Dorado County

29 July 2016

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2013-0145_res.pdf

Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program. There are two options to comply:

1. **Obtain Coverage Under a Coalition Group.** Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board’s website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/app_approval/index.shtml; or contact water board staff at (916) 464-4611 or via email at IrrLands@waterboards.ca.gov.
2. **Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100.** Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$1,084 + \$6.70/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.

Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be



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El Dorado County Biological Resources - 6 -
Policy Update, Oak Resources Management
Plan and Ordinance Project
El Dorado County

29 July 2016

covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf


For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of the waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit.

For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/help/business_help/permit3.shtml

If you have questions regarding these comments, please contact me at (916) 464-4644 or Stephanie.Tadlock@waterboards.ca.gov.



Stephanie Tadlock
Environmental Scientist

cc: State Clearinghouse unit, Governor's Office of Planning and Research, Sacramento

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Response to Comment Letter 2

Central Valley Regional Water Quality Control Board

Stephanie Tadlock

July 29, 2016

- 2-1** This comment introduces the Central Valley Regional Water Quality Control Board (CVRWQCB) and states the focus of their comments.

This comment does not address the content or adequacy of the Environmental Impact Report (EIR) and no response is required.

- 2-2** This comment explains the regulatory setting by which the CVRWQCB must abide and directs the reader to further information.

This comment does not address the content or adequacy of the EIR and no response is required. The EIR evaluates the County of El Dorado’s (County’s) proposed General Plan Biological Resources Policy Update and Oak Resources Management Plan (proposed project) and associated documents. It does not evaluate any specific land development projects that are subject to the regulations referenced in this comment.

- 2-3** This comment states that all discharges must comply with the Antidegradation Policy and the Antidegradation Implementation Policy and directs the reader to further information. The comment also states the environmental document should evaluate potential impacts to surface and groundwater quality.

This comment does not address the content or adequacy of the EIR and no response is required. The EIR evaluates the County’s proposed project and associated documents. The proposed project would not change the land use or zoning designations of any properties within the County and would not change the development standards (such as intensity and density limits) for any land use designation or zone district. Therefore, the project would not increase the amount or intensity of land use development allowed within the County and thus would not directly result in the potential for adverse effects to hydrologic conditions, including water quality. The EIR does not evaluate any specific land development projects subject to the Antidegradation Policy.

- 2-4** This comment explains the requirements for various permit types and provides links to further information. This comment also provides contact information should additional information from the CVRWQCB be needed.

This comment does not address the content or adequacy of the EIR and no response is required. The EIR evaluates the County’s proposed project and associated documents. It does not evaluate any specific land development projects subject to any of the permitting requirements identified in this comment.

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Comment Letter 3

8/16/2016

Edgovus Mail - ED_ORMP_DEIR_comments_LL_8_15_2016



Shawna Purvines <shawna.purvines@edcgov.us>

ED_ORMP_DEIR_comments_LL_8_15_2016

1 message

Egbert, Mark - NRCS-CD, Placerville, CA <Mark.Egbert@ca.usda.gov> Mon, Aug 15, 2016 at 4:29 PM
To: "shawna.purvines@edcgov.us" <shawna.purvines@edcgov.us>

Hello Shawna,

Attached are comments being presented by the El Dorado County Resource Conservation District regarding the General Plan Biological Resources Policy update and Oak Resources Management Plan.

Thank you.

Mark A. Egbert, CPESC#6350
District Manager
El Dorado County & Georgetown Divide Resource Conservation Districts
100 Forni Road, Suite A
Placerville, CA 95667
(w) 530-295-5633
(cell) 530-957-3472
www.eldoradorcd.org
www.georgetowndividercd.org

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-----Original Message-----
From: scans@ca.usda.gov [mailto:scans@ca.usda.gov]
Sent: Monday, August 15, 2016 12:47 PM
To: Egbert, Mark - NRCS-CD, Placerville, CA <Mark.Egbert@ca.usda.gov>
Subject:

This E-mail was sent from "RICOHMP5000N200" (Aficio MP C5000).

Scan Date: 08.15.2016 15:46:35 (-0400)
Queries to: scans@ca.usda.gov

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El Dorado County Resource Conservation District
100 Forni Road, Suite A • Placerville, CA 95667 • Phone (530) 295-5630, Fax (530) 295-5635

Shawna Purvines
Senior Planner
2850 Fair Lane Court, Bldg. C
Placerville, CA 95667

RE: El Dorado County Resource Conservation District comments on Draft EIR for the Biological Resource Policy and Oak Resource Management Plan.

1.) There are several elements within the Oak Resource Management Plan (ORMP) in which the Resource Conservation District could assist the County in determining whether the proposals or actions comply with the ORMP, including:

- The ORMP identifies that developers or others can replace oak woodlands to be impacted by obtaining fee title or conservation easements on lands within Priority Conservation Areas (defined and mapped) or in other areas that meet specific criteria spelled out in the ORMP (page A-30). A report from a Qualified Professional is required. There is a role for the RCD to assist in the evaluation of whether the lands proposed by the proponent are appropriate, whether they meet the criteria, and whether they are comparable to the oak trees or oak woodlands proposed to be cleared or impacted.
- The ORMP calls for monitoring reports for assessment of completion and success of replanting of oaks. These reports are to be completed by a Qualified Professional. The RCD could serve as a Qualified Professional or could assist the County in evaluating the reports and in site visits to determine whether the reports accurately reflect conditions on the ground.
- The ORMP established Priority Conservation Areas (PCAs), utilizing various data sets. There may be a need in the future to evaluate the accuracy of this mapping and make adjustments. This may affect the list of willing sellers of lands classified as PCA. The RCD could assist in the evaluation and assessment of whether lands meet the criteria to be considered PCA.
- The ORMP also calls for an Oak Woodland Conservation Program with several elements including the management, maintenance, monitoring and restoration of these areas. The RCD could assist in several of these tasks.
- The ORMP calls for an education and outreach effort to assist in establishing a list of willing sellers of lands or conservation easements within PCAs, and to provide for voluntary conservation of oak woodlands within working landscapes. The RCD could assist in these education and outreach responsibilities.

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• The RCD is in an ideal position to seek grants to help the County in the ongoing implementation of the ORMP, including management, protection and enhancement of oak woodlands within conservation easements or fee title held by the County or land conservancy.

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• The ORMP allows developers and other project proponents to pay in-lieu fees, with those funds going into an Oak Woodland Conservation Fund. These funds can be used to acquire PCA lands or other appropriate lands. The RCD could play a role in assessing lands that meet the objectives of the ORMP and recommending lands or conservation easements to be acquired by the County.

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2.) The ORMP allows for proponents to put deed restrictions into place in certain situations, in lieu of conservation easements or transferring ownership of lands to the County. However, there is no specific monitoring requirement or other means of assuring compliance with the deed restriction over time. There is also no contribution to an endowment to complete future compliance inspections or measures to resolve non-compliance. There should be a mechanism to provide for monitoring by the County or a Qualified Professional.

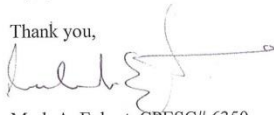
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3.) Biological Policy DEIR, Evaluation of Alternative 2, page 10-20 and 10-21, Fragmentation. The analysis identified the potential for increased land disturbance and greater amounts of habitat loss and fragmentation. However, the ORMP provides for acquisition of lands or conservation easements in close proximity to lands proposed for development. This could increase the area of retained oak woodland, thus reducing fragmentation. The ORMP should encourage and incentivize the acquisition of lands in close proximity to existing protected oak woodlands. At present, the ORMP allows for the purchase of lands or implementation of deed restrictions on lands contiguous with adjacent protected lands (page 26 of the Draft ORMP), but does not provide an incentive.

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We appreciate the opportunity to provide comment. Please contact the RCD office if you have any questions.

Thank you,



Mark A. Egbert, CPESC# 6350
District Manager
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www.eldoradored.org
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Response to Comment Letter 3

El Dorado County and Georgetown Divide Resource Conservation Districts

Mark Egbert

August 15, 2016

- 3-1** This comment introduces the commenter and the attached comment letter from the El Dorado County (County) and Georgetown Divide Resource Conservation Districts (RCDs).

This comment does not address the content or adequacy of the Draft EIR and no response is required.

- 3-2** This comment states that there are ways in which the RCD can help the County with implementation of the Oak Resources Management Plan (ORMP). This comment offers to assist in the evaluation of lands proposed for conservation outside of defined and mapped Priority Conservation Areas (PCAs) as defined in the ORMP.

This comment does not address the content or adequacy of the Draft Environmental Impact Report (EIR). The proposed General Plan Biological Resources Policy Update and ORMP (proposed project) require that lands identified for conservation outside of PCAs be evaluated by a Qualified Professional to demonstrate that the proposed conservation area is of equal or greater biological value than the oak woodland proposed to be removed. Retaining a Qualified Professional and identifying lands for conservation would be the obligation of the project applicant. Applicants could choose to work with the RCD in this capacity if the RCD meets the professional criteria outlined in the ORMP.

- 3-3** This comment offers the RCD as a candidate to serve as a qualified professional to prepare ORMP-required monitoring reports or to aid the County in determining the validity of reports by other qualified professionals.

This comment does not address the content or adequacy of the Draft EIR. The proposed project requires that monitoring reports be prepared by a Qualified Professional, which is defined in the ORMP as “an arborist certified by the International Society of Arboriculture (ISA), a qualified wildlife biologist, or a registered professional forester (RPF).” As stated previously in Response to Comment 3-2 in this section (Section 3.2, State and Local Agencies) of this Final EIR, retaining a Qualified Professional would be the obligation of the project applicant and applicants could choose to work with the RCD in this capacity if the RCD meets the criteria outlined in the ORMP. The ORMP does not preclude the County from engaging the RCD in a third-party review capacity, should it elect to do so.

- 3-4** This comment states that the County’s PCAs may need to be adjusted in the future and offers assistance in the evaluation and assessment of lands that may meet the criteria for being included in the PCAs in the future.

This comment does not address the content or adequacy of the Draft EIR. As discussed in Master Response 2 in Chapter 2 (Master Responses) in this Final EIR, the PCAs were determined by the County during development of the 2008 Oak Woodland Management Plan. No changes to the PCAs are currently proposed. Instead, the proposed project identifies criteria for selection of conservation areas outside of the PCAs and makes identification of conservation lands a responsibility of the project applicant. As noted in Response to Comment 3-2 in this section (Section 3.2, State and Local Agencies), any land that a project applicant proposes to use for conservation, whether inside or outside of the PCAs, must be evaluated by a Qualified Professional to demonstrate that the proposed conservation area is of equal or greater biological value than the oak woodland proposed to be removed. The ORMP does not preclude the County or a project applicant from engaging the RCD to evaluate potential conservation areas if the RCD meets the professional criteria outlined in the ORMP.

- 3-5** This comment offers assistance in the management, maintenance, monitoring, and restoration of oak woodlands as required under the County’s proposed Oak Woodland Conservation Program.

The Oak Woodland Conservation Program identified in the ORMP (Appendix A, Section 9.0) simply refers to implementation of the oak woodland conservation portion of the ORMP. This section of Appendix A of the ORMP identifies the following as its major components: (1) a County-maintained database for the separate accounting of oak woodland conservation grants and in lieu fees, and the separate tracking of acreages of oak woodland impacts and conservation/preservation and restoration for annual review and reporting by the County; and (2) one or more entities approved by the Board of Supervisors to assist in the management, maintenance, monitoring, or restoration of oak woodlands acquired for any purpose authorized under this ORMP. In this context, oak woodlands are considered “acquired” if the lands are acquired in fee or subject to oak tree conservation easements. The ORMP does not preclude the County from engaging the RCD to assist with implementing efforts to acquire and conserve oak woodlands as identified in the ORMP, should it elect to do so.

- 3-6** This comment offers assistance for education and outreach responsibilities as defined in the ORMP.

This comment does not address the content or adequacy of the Draft EIR. The education and outreach components of the ORMP (Appendix A) state that the County will maintain and make public a list of sources of information and other resources concerning conservation, replanting, and successful maintenance of oak woodlands as part of working landscapes. The ORMP does not preclude the County from engaging the RCD to assist with implementing the education and outreach component of the ORMP, should it elect to do so.

- 3-7** This comment offers to help the County seek grant funding for the ongoing implementation of the ORMP, including management of conserved oak woodlands.

This comment does not address the content or adequacy of the Draft EIR. The in lieu fees identified in the ORMP were calculated such that they would adequately fund oak woodland conservation land acquisition, initial management and monitoring, long-term management and monitoring, and administration. Grant funds are not expected to be necessary to fund management of oak woodland conservation areas required under the ORMP.

- 3-8** This comment offers assistance in assessing lands that meet the objectives of the ORMP and providing recommendations for lands or conservation easements to be acquired by the County.

This comment does not address the content or adequacy of the Draft EIR. As noted in Response to Comment 3-4 in this section (Section 3.2, State and Local Agencies), the PCAs were determined by the County during development of the 2008 Oak Woodland Management Plan and no changes to their extent are currently proposed. Under the proposed ORMP, identification of conservation lands outside of the PCAs would be the responsibility of the project applicant, subject to the criteria in the ORMP, which include evaluation by a Qualified Professional. The ORMP does not preclude the County or a project applicant from engaging the RCD to evaluate potential conservation areas if the RCD meets the professional criteria outlined in the ORMP.

- 3-9** This comment states that the ORMP does not specify a monitoring requirement or another means of assuring compliance with deed restrictions over time and suggests that there should be a mechanism to provide for monitoring by the County or a Qualified Professional.

This comment does not address the content or adequacy of the Draft EIR. As identified in the ORMP, deed restrictions or conservation easements must be placed over retained on-site oak woodlands, which are not counted toward required mitigation. Deed restrictions or conservation easements must also be placed over on-

site replacement planting areas, which are subject to 7 years of maintenance, monitoring, and reporting to be funded by the applicant. Finally, deed restrictions may also be used for the purposes of off-site oak woodland conservation. In all cases, deed restrictions would commit the property against which the restriction is recorded to oak woodland conservation use in perpetuity. Further, all deed restrictions would be recorded with the County Clerk/Recorder prior to requesting issuance of a grading or building permit, filing a parcel or final map, or otherwise commencing with the project. As a standard practice, anytime permits are sought for grading and building, County staff reviews the subject property for any applicable deed restrictions. This standard practice provides the mechanism by which the County would assure compliance with any deed restrictions recorded under the requirements of the ORMP.

- 3-10** This comment describes the conclusion of Alternative 2 in the Draft EIR regarding land disturbance and habitat fragmentation and suggests that the ORMP should encourage and incentivize the acquisition of oak woodland conservation lands in close proximity to existing protected oak woodlands to reduce habitat fragmentation. This comment also provides contact information for the RCD.

As noted in the comment, the Draft EIR analysis of Alternative 2 concludes that under that alternative, which would require all development to retain a minimum of 30% of the existing oak woodland on the project site, there is an increased potential for habitat fragmentation compared to the proposed project. This is because with mandatory 30% retention, it is expected that development densities would be generally reduced, which would require development of more individual parcels to achieve the growth projections assumed under the General Plan. Further, the retained habitat on each development site would be in small patches that would not contribute to conservation of large contiguous habitat blocks.

Consistent with the recommendation in this comment, the proposed ORMP requires that conservation occur either within the PCAs or on lands outside of PCAs that provide a minimum contiguous habitat block of 5 acres. This requirement is identified in Section 4.3 (Conservation Outside of PCAs) of the ORMP, which states “Land or conservation easement acquisition that occur outside of PCAs shall occur on minimum contiguous habitat blocks of 5 acres (the acquired land or conservation easement shall be contiguous to or shall create a contiguous area of no less than 5 acres of oak woodland in conserved or open space status).” As presented in Section 4.1 (Identification of Priority Conservation Areas) of the ORMP, PCAs were designed to be large expanses of oak woodland greater than 500 acres. Thus, the proposed project requires acquisition of conservation lands in close proximity to existing oak woodlands.

Comment Letter 4

8/22/2016 Edcgov.us Mail - Letter regarding the DEIR Biological Resources Policy Update and Oak Resources Management Plan SCH 2015072031



Shawna Purvines <shawna.purvines@edcgov.us>

Letter regarding the DEIR Biological Resources Policy Update and Oak Resources Management Plan SCH 2015072031

1 message

Cashdollar, Shaundra@Wildlife <Shaundra.Cashdollar@wildlife.ca.gov> Mon, Aug 22, 2016 at 12:00 PM
To: "shawna.purvines@edcgov.us" <shawna.purvines@edcgov.us>
Cc: "Drongesen, Jeff@Wildlife" <Jeff.Drongesen@wildlife.ca.gov>, "Barker, Kelley@Wildlife" <Kelley.Barker@wildlife.ca.gov>, "Quillman, Gabriele@Wildlife" <Gabriele.Quillman@wildlife.ca.gov>, "state.clearinghouse@opr.ca.gov" <state.clearinghouse@opr.ca.gov>

Ms. Purvines,

Please let me know that you have received this email and that you are able to open the attachment. The hard copy will follow via USPS.

Thank you,

4-1

Shaundra Cashdollar
Department of Fish and Wildlife
North Central Region/Region 2
1701 Nimbus Road, Suite A
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State of California - Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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EDMUND G. BROWN, Jr., Governor
CHARLTON H. BONHAM, Director



August 22, 2016

Shawna Purvines
El Dorado County
Community Development Agency
2850 Fairlane Court, Building C
Placerville, CA 95667

Subject: DRAFT ENVIRONMENTAL IMPACT REPORT
BIOLOGICAL RESOURCES POLICY UPDATE AND OAK
RESOURCES MANAGEMENT PLAN
STATE CLEARINGHOUSE NO. 2015072031

Dear Ms. Purvines:

The Department of Fish and Wildlife (Department) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Biological Resources Policy Update and Oak Resources Management Plan (project) (State Clearinghouse No. 2015072031). The Department is responding to the DEIR as a Trustee Agency for fish and wildlife resources (California Fish and Game Code sections 711.7 and 1802, and the California Environmental Quality Act (CEQA) Guidelines Section 15386), and as a Responsible Agency regarding any future discretionary actions (CEQA Guidelines Section 15381), such as the issuance of a Lake or Streambed Alteration Agreement (California Fish and Game Code sections 1600 *et seq.*) and/or a California Endangered Species Act (CESA) Permit for Incidental Take of Endangered, Threatened, and/or Candidate species (California Fish and Game Code sections 2080.1 and 2081).

4-2

The proposed project consists of amendments to El Dorado County's (County; the CEQA lead agency) General Plan, development of a management plan for the County's oak resources, and adoption of an Oak Resources Conservation Ordinance. The proposed General Plan amendments replace the County's Integrated Natural Resources Management Plan (INRMP) with a Biological Resource Mitigation Program, which includes provisions for the conservation of habitats that support special status species, aquatic features, wetland and riparian habitat, habitat for migratory deer herds, wildlife movement corridors, and large expanses of native vegetation. The Oak Resources Management Plan and Ordinance establish mitigation requirements for impacts to oak woodlands, individual native oak trees, and Heritage Trees.

4-3

Conserving California's Wildlife Since 1870

Ms. Purvines
El Dorado County
August 22, 2016
Page 2 of 13

Comments and Recommendations

Following review of the DEIR, the Department offers the comments and recommendations presented below to assist the County in adequately identifying and/or mitigating the project's significant, or potentially significant, impacts on biological resources:

4-4

Pine Hill Plants

Western El Dorado County's gabbro soils support a unique community of rare and endemic plants, including Pine Hill ceanothus (*Ceanothus roderickii*), El Dorado County mule ears (*Wyethia reticulata*), El Dorado bedstraw (*Galium californicum* ssp. *sierrae*), Pine Hill flannelbush (*Fremontodendron decumbens*), Bisbee Peak rush-rose (*Helianthemum suffrutescens*), Red Hills soaproot (*Chlorogalum grandiflorum*), Stebbins' morning glory (*Calystegia stebbinsi*), and Layne's butterweed (*Packera layneae*), to which the DEIR collectively refers as the Pine Hill plants.

4-5

The DEIR's analysis of the General Plan's policies with respect to biological resources and the physical environmental effects resulting from buildout of the land uses anticipated under the General Plan includes a general discussion of the anticipated impacts to special-status species; however, it does not include an analysis of impacts to the Pine Hill plants. Because the Pine Hill plants and their habitat are a unique and significant aspect of the County's environmental setting, and because the Biological Resources Plan Update proposes revisions to policy pertaining to the Pine Hill plants' protection, such an analysis is warranted. The Department recommends that the DEIR be revised to include an analysis of the project's potential direct, indirect, and cumulative impacts on the Pine Hill plants and their habitat.

4-6

4-7

The proposed revisions to Policy 7.4.1.1 include a change of reference from County Code Chapter 17.71 to County Code Chapter 130.71 and the addition of the phrase "where feasible" to the requirement that the County establish and manage ecological preserves consistent with the United States Fish and Wildlife Service's (USFWS) *Gabbro Soil Plants of the Central Sierra Nevada Foothills Recovery Plan* (Recovery plan; USFWS 2002). The Department offers the following comments regarding the proposed revisions to Policy 7.4.1.1:

4-8

1. Please provide an account of any differences, including additions, omissions, and/or changes in wording, between Chapter 17.71 and Chapter 130.71, and explain what, if any, impacts the changes may have on the efficacy of the County's mitigation program for the Pine Hill plants.

4-9

2. The Department does not concur with the conclusion that the addition of the phrase "where feasible" will have no effect for the following reasons: a) the term "feasible" is not defined, and b) although, as the DEIR mentions, the Recovery Plan *by itself* is not a binding requirement, the existing policy explicitly requires

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Ms. Purvines
 El Dorado County
 August 22, 2016
 Page 3 of 13

consistency with the Recovery Plan. The addition of the phrase "where feasible" changes the meaning of the Policy so that consistency with the Recovery Plan is no longer required. Because the term "feasible" is not defined, it is not clear by what process the County will determine when consistency is required and when it is not. This results in a relaxation of the standards by which the County is required to provide for the protection of the Pine Hill plants, and may, depending upon how it is interpreted, result in significant adverse impacts to the Pine Hill plants. The Department recommends that the phrase "where feasible" be removed from Policy 7.4.1.1, or that the DEIR be revised to include a thorough and detailed analysis of the potential effects of the wording change.

The Department understands that County Code Chapter 130.71 provides two options for project sponsors as a means to minimize and mitigate impacts on the Pine Hill plants, including: 1) payment into the County's in-lieu fee program, and 2) participation in the rare plant off-site mitigation program. The County's in-lieu fee program, in part, requires that fees be reviewed on an annual basis, and adjusted as necessary to ensure that the anticipated fees are appropriate to protect, improve, and maintain appropriate amounts of rare plant habitat. Specifically, Chapter 130.71.040 states "[t]here are hereby established an Ecological Preserve Mitigation requirement comprised of on-site and off-site mitigation standards and an ecological preserve fee in lieu of such mitigation. The amounts of the fee shall be established periodically by resolution of the Board and shall be based on the formula set forth in this Ordinance," and 130.71.070 states "[t]he fee amounts shall be reviewed on an annual basis and adjusted as necessary to insure that the anticipated fees are no more and no less than required for the purpose for which they are collected."

The current funds collected by the County's in-lieu fee program may not be adequate to offset the ongoing impacts to the Pine Hill plants and their habitat, or to meet the standard set forth by CEQA. To the Department's knowledge, the fee amount has not been adjusted since its establishment in 1998. Projects approved by the County over time have cumulatively led to the loss of rare plant habitat and rare plants throughout a significant portion of their limited range. Therefore, the Department recommends that the in-lieu fee program be re-evaluated and updated prior to its use to mitigate impacts to Pine Hill rare plants to below a level of significance.

CEQA guidelines section 15021 establishes a duty for public agencies to avoid or minimize environmental damage where feasible. CEQA also requires that lead agencies give major consideration to preventing environmental damage, and should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment. The Department recommends that the County evaluate and demonstrate the General Plan's ability to avoid and minimize both direct and indirect impacts to Pine Hill plants and their habitat, and require further policy revisions as necessary to accomplish these tasks. For those projects where impacts to



Ms. Purvines
 El Dorado County
 August 22, 2016
 Page 4 of 13

sensitive plants are unavoidable, a comprehensive mitigation strategy should be established to offset the impacts. Until such a strategy is established and adopted, significant adverse impacts to the Pine Hill plants will likely continue to occur. The Department recommends that the DEIR be revised to include a timeline for the establishment and adoption of a comprehensive mitigation strategy for the Pine Hill plants.

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Sensitive Habitat Protection

The DEIR's Table 6-5 provides a list of sensitive vegetation communities found, or potentially found, within El Dorado County. Of the natural communities listed in Table 6-5, 52 are ranked S1 – S3, including many upland habitat types. The Department considers vegetation communities with State ranks of S1 – S3 to be imperiled and of high priority for preservation.

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While the Department appreciates that upland communities other than oak woodlands are given consideration in the proposed Biological Resource Mitigation Program, the proposal to preserve non-oak woodland upland habitat at a 1:1 mitigation to impact ratio will not adequately offset potential impacts to natural communities designated S3 or rarer. A 1:1 preservation to impact ratio allows for a net loss of up to 50% of the existing unprotected habitat. This would be a significant adverse impact, particularly in the case of rare natural communities which are already declining and/or have limited distributions. The Department recommends that the Biological Resource Mitigation Program be revised to require a stronger mitigation proposal for natural communities ranked S1 – S3, and strongly encourages the County to adopt a no-net-loss standard for these imperiled habitats. It is also important to be sure that mitigation for these rare habitat types is in-kind. For example, a project impacting Fremont cottonwood forest should include creation and preservation of Fremont cottonwood forest specifically, rather than some other type of riparian habitat. The Department recommends that the General Plan be revised to explicitly state that habitat mitigation should be in-kind.

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Wildlife Movement

The Department offers the following recommendations for the protection of wildlife movement corridors:

1. *Essential Wildlife Connectivity*: The Department's California Essential Habitat Connectivity Project (Spencer *et al.* 2010) has identified the corridor of relatively undeveloped land stretching from Marble Valley to Sawtooth Ridge as an area of essential habitat connectivity. The corridor's southern terminus is located in the Marble Valley area, west of Shingle Road, east of Latrobe Road, and south of Highway 50. It continues north over the highway, between the communities of El Dorado Hills and Cameron Park, and connects to undeveloped lands in the northwest portion of the County, east of Folsom Lake. The Department recommends that the County map this area as an Important Biological Corridor,

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Ms. Purvines
El Dorado County
August 22, 2016
Page 5 of 13

and that this be considered in the review and mitigation of future projects proposing impacts to wildlife movement in this area.

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2. *Habitat Corridor Management*: The project proposes to revise Policy 7.4.2.4 to replace the word "manage" with "preserve" in respect to wildlife habitat corridors within public parks and natural resource protection areas, stating that "[g]enerally, preservation of the corridor should suffice to maintain its functionality for wildlife movement, so this would have little to no adverse effect." Although the Department agrees that a high degree of active management is unlikely to be required to maintain the function of preserved wildlife movement corridors, there are reasonably foreseeable circumstances in which management will likely be required. Management activities that may be necessary in order to maintain wildlife movement may include, but are not limited to, remediation following natural disasters (e.g., fires, floods, landslides, etc.), remediation of impacts resulting from unauthorized off-highway vehicle use, removal of invasive species, and removal of unauthorized encampments and/or human-deposited debris. Therefore, the Department recommends that the County include within its revised General Plan a mechanism to provide for as-needed management activities.

| 4-22

Oak Resources Management Plan

Following review of the proposed Oak Resources Management Plan (ORMP), the Department has identified concerns regarding the completeness of the impact analysis, the adequacy of the proposed mitigation measures, and the potential impacts to valley oak woodlands in particular.

| 4-23

1. *Impact Analysis*: The DEIR is unclear on how impacts to oak woodlands will be assessed. While it is clear that the outright removal of oaks represents an impact, indirect impacts including isolation of "retained" oak woodland from larger continuous habitat areas, removal or modification of understory vegetation, reduction of available recruitment ground due to paving near or around oaks, and other "edge effects" may substantially reduce the habitat quality of any oak woodlands remaining on-site following project buildout. Many species dependent on oak woodland as habitat require a minimum of five acres in order to derive long-term habitat value from the patch, including western grey squirrel (Thysell & Carey 2001) and lark sparrow (Stralberg & Williams 2002). In order to ensure that these adverse impacts are properly mitigated, the Department recommends that the ORMP be revised to state that oak woodlands that remain on-site but are fragmented into patches less than five continuous acres, are substantially modified from their natural state (e.g., through understory vegetation removal, paving, introduction of materials or vegetation likely to hinder natural recruitment, etc.), or are in any other way indirectly substantially impacted shall not be considered "retained" for the purposes of determining the appropriate project-specific mitigation ratio.

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Ms. Purvines
El Dorado County
August 22, 2016
Page 6 of 13

2. *Adequacy of the Proposed Mitigation Ratios:* The Department does not concur that a 1:1 to 2:1 mitigation ratio is sufficient to reduce per-project impacts to oak woodlands to a level that is less than significant. Because the mitigation options allow impacts to be mitigated via preservation only, a project impacting oak woodlands may mitigate the impacts by preserving existing oak woodlands in an amount equal to up to twice the area of impact. This would result in a net loss of the entire original impact area. While preserving existing oak woodlands prevents them from being impacted by hypothetical future projects, it does not add habitat value or area to compensate for the area and values lost from the originally impacted oak woodlands.

4-26

In order to ensure that the functions and values of the impacted oak woodlands are replaced, the Department recommends that some oak woodland creation and/or restoration be required in addition to preservation requirements, rather than allowing creation and/or restoration to optionally replace up to 50% of preservation requirements.

4-27

Although the DEIR concludes that a no-net-loss policy for oak woodlands is infeasible due to the likely cost, it does not provide an economic analysis supporting its conclusion, nor does it demonstrate that the proposed mitigation strategy is the best feasible mitigation. While potential impacts to oak woodlands may remain significant and unavoidable even with a higher mitigation ratio and required creation and/or restoration element, the cumulative impacts to oak woodlands would be substantially lessened. As mentioned earlier, a public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment (CEQA Guidelines §15021(a)(2)). Therefore, the Department recommends that the DEIR be revised to include a thorough evaluation of the proposed mitigation ratios and additional ways to strengthen them to the point where the cumulative impacts on oak woodlands are reduced to less than significant. The analysis should provide substantial evidence supporting the conclusion that mitigation measures considered and rejected are not feasible.

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4-29

3. *Priority Conservation Areas:* The Priority Conservation Areas (PCAs) identified by the County are in large part located in areas that are geographically distant from the areas that are projected to be developed by 2035. This is problematic for two reasons: firstly, it separates the mitigation areas from the areas of impact, and secondly, it places unduly high conservation priority on areas that are less likely to be developed in the foreseeable future. Development within El Dorado County is heaviest around the Highway 50 corridor, and the projected growth through 2035 is similarly located. By designating only PCAs outside of the Highway 50 corridor, the County proposes mitigation outside of the area of highest impact. Furthermore, the placement of PCAs in areas that are less likely

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Ms. Purvines
 El Dorado County
 August 22, 2016
 Page 7 of 13

to be developed prioritizes mitigation in the areas in which it is least urgently needed. The value of preservation as mitigation is predicated on the assumption that the areas to be preserved would, if not preserved, be likely to be developed. Preservation of habitat that is unlikely to be converted is inherently less valuable and less effective as mitigation than is preservation of habitat that would otherwise be likely to be converted. Therefore, the Department recommends that the ORMP be revised to include mitigation that specifically and effectively addresses impacts within the Highway 50 corridor.

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4. *Valley Oak Woodland*: Valley oak woodland is a state-designated rare natural community that is endemic to California (CDFG 2010; Standiford *et al.* 1996; CIWTG). Rare natural communities have limited distribution and are often vulnerable to project impacts (CDFW 2009). Only remnant patches of valley oak woodland remain, and it is currently estimated that less than 10 percent of its initial distribution remains (Standiford *et al.* 1996). Research suggests that valley oak trees are not regenerating enough for eventual replacement (Zavaleta *et al.* 2007), and most surviving stands appear to be between 100 and 300 years old (CIWTG). Because valley oak prefers relatively flat, fertile sites, it has been disproportionately impacted by development and agricultural land conversion as compared with other foothill oak species (Sork *et al.* 2002).

4-33

The DEIR estimates that approximately 3,970 acres of valley oak woodland currently exist within El Dorado County. By 2035, the DEIR estimates that up to 2,544 acres of valley oak woodland may be converted: 401 acres due to General Plan buildout, 29 acres in fire safe project areas, 11 acres in County road widening and/or realignment areas, and 2,103 acres in agricultural lands. This represents a potential loss of nearly 65% of the County's existing valley oak woodlands. Because the proposed ORMP mitigation options do not require restoration or replanting, any valley oak woodlands removed may never be replaced.

4-34

Due to the scarcity of valley oak woodland and its severe decline statewide, the Department recommends that the County adopt a no-net-loss policy for this habitat type. If no-net-loss is not possible, then the Department recommends the mitigation strategy be strengthened to achieve as close to no-net-loss as possible, and that the EIR include a thorough and detailed feasibility analysis showing how the revised mitigation proposal was formulated.

4-35

5. *Proposed Exemptions*: the Department offers the following comments and questions regarding the proposed exemptions for the ORMP:

4-36

- a. *Single-Family Lot Exemption, County Road Project Exemption, and Affordable Housing Exemption*: The Department does not concur with the conclusion that the impacts of these exemptions would be less than significant. While the area of oak woodlands potentially impacted as a result

Ms. Purvines
El Dorado County
August 22, 2016
Page 8 of 13

of each of these specific exemptions may be comparatively small, they are a cumulatively significant contribution to the project's overall impacts on oak woodlands, which the DEIR has deemed to be significant and unavoidable. Therefore, the Department recommends that the DEIR be revised to include a discussion of the feasibility and appropriateness of adopting mitigation for impacts resulting from these activities.

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- b. *Agricultural Activities Exemption*: The DEIR states that adopting mitigation to address impacts resulting from agricultural activities would conflict with Goals 8.1 and 8.2, Objectives 8.1.1 and 8.2.2, and Policies 8.1.1.1 and 8.2.2.1. However, it is unclear how adopting mitigation for oak resources impacted as a result of agricultural activities conflicts with the aforementioned Goals, Objectives, and Policies, which make no mention of mitigation, much less discourage or prohibit its use. Because no such exemption appears within the Biological Resources Mitigation Program, it does not appear to be the case that requiring mitigation for agricultural impacts to habitat inherently contradicts the General Plan. Please clarify the source of the conflict, and how it was determined that adopting mitigation for impacts resulting from agricultural activities was deemed infeasible.

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4-37

It is also unclear why the Agricultural Activities Exemption includes *all* activities conducted on lands covered by Williamson Act or Farmland Security Zone contracts (agricultural preserves). Using parcel data County agricultural preserves in conjunction with the Department of Forestry and Fire Protection's (CAL FIRE) 2015 Fire and Resource Protection data regarding vegetation communities (CAL FIRE 2015), the Department calculated that approximately 16,936 acres of oak woodland exist on County agricultural preserves. Because neither Williamson Act nor Farmland Security Act contracts are permanently binding, this exemption may present an incentive for agricultural preserve owners who plan to develop the land once the contract expires to remove oak woodlands. Please clarify why it is necessary to exempt *all* activities on agricultural preserves, given the existing exemption for agricultural activities. If mitigation measures to offset impacts resulting from agricultural activities and/or all activities performed on lands covered by Williamson Act or Farmland Security Zone contracts are not found to be infeasible, they should be adopted.

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4-38

Project-Specific Assessment of Biological Resources and Avoidance/Minimization

Proposed Policy 7.4.2.8 requires applicants for future development projects to prepare and submit a Biological Resources Report to determine the presence of special-status biological resources that may be affected by a proposed discretionary project. The Department offers the following guidelines for assessing the biological resources

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Ms. Purvines
 El Dorado County
 August 22, 2016
 Page 9 of 13

potentially present on future project sites and recommends that they be incorporated into the County's guidelines for the preparation of biological reports:

1. *Vegetation Mapping*: Vegetation communities should be assessed and mapped following *The Manual of California Vegetation*, second edition (Sawyer *et al.* 2009). Adjoining habitat areas should also be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions.
2. *Lake and Streambed Delineation*: Policy 7.3.3.1 requires projects that would result in the discharge of material to or that may affect the function and value of river, stream, lake, pond, or wetland features to include in their application a delineation of all such features, and that the delineation of wetlands be conducted using the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual. Please note that the USACE's limits of jurisdiction within rivers, streams, lakes, and wetlands differ from those of the Department. Because such projects are likely to require notification to the Department pursuant to FGC section 1602, the Department recommends that Policy 7.3.3.1 be revised to require project applications to also include a delineation of on-site features subject to FGC section 1600 *et seq.* By making this distinction explicitly clear in Policy, the County may reduce confusion and prevent potential project delays that may otherwise result if the Department requires additional delineations to be prepared during or after the CEQA process.
3. *Focused Surveys*: Focused species-specific surveys should be conducted by a qualified biologist, during the season(s) and time(s) at which the species in question is most likely to be present and identifiable (e.g., during blooming and/or fruiting for plants, at dawn and dusk for crepuscular species, during times of year when migratory species are expected to be present in the region, etc.). Focused surveys should follow the protocols recommended by the Department and/or the United States Fish and Wildlife Service (collectively, "the Wildlife Agencies"). The Department's recommended survey protocols and guidelines may be found at https://www.dfg.ca.gov/wildlife/nongame/survey_monitor.html. In cases where the Wildlife Agencies do not have a specific recommended survey methodology, survey protocols based on the best available scientific knowledge should be established in coordination with the Wildlife Agencies.
4. *Survey Updates*: Focused surveys for animal species and annual or short-lived perennial plant species are generally considered valid for a period of one year, whereas surveys for longer-lived perennial plant species may be valid for two to five years, depending on the species and site conditions. If a project's construction is scheduled to begin more than one year after focused surveys have been conducted, the applicant should plan to conduct updated surveys prior to the project's start. Some projects may warrant periodic updated surveys

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Ms. Purvines
 El Dorado County
 August 22, 2016
 Page 10 of 13

for certain sensitive taxa, particularly if the project is proposed to occur over a protracted time frame, or in phases, or if environmental conditions change during the project period.

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In order to lessen the project’s potential cumulative impacts on special-status species and their habitats, the Department recommends incorporating the following avoidance and minimization measures into the County’s guidelines and/or policies for the protection of biological resources:

4-44

1. *Nesting Bird Avoidance*: If project activities with the potential to disturb nesting birds to the point of nest failure and/or mortality of nesting birds and their offspring, e.g. ground disturbing activities and vegetation removal, are planned during the avian nesting season (generally between February 1 and September 15, with variations depending on species and location), pre-construction nesting bird surveys should be performed by a qualified ornithologist within 72 hours prior to commencing the activities. If an active nest is discovered, the ornithologist should formulate and implement avoidance measures as needed to avoid causing nest failure, injury, or mortality. Such measures may include, but are not limited to: the use of buffers, sound walls, and project phasing/timing revisions. If, during the nesting season, project activities are halted for seven days or more, additional pre-construction nesting surveys should be implemented prior to resuming activity.

4-45

2. *Bat Avoidance*: If a project is determined to have the potential to affect bat roosting habitat (e.g. bridges, culverts, palm trees, hollow trees, buildings, crevices, caves, mines, etc.), then potential roosts should be surveyed by a qualified bat biologist prior to initiating project activities. If bats are found, then the following avoidance measures should be implemented:

- If bats are present or potentially present, then work on top of, under, around, or near the roosting structure(s) should be scheduled outside of the bat maternity season (generally between March 1 and September 1, with variations depending on species and location).
- Gasoline and diesel engines should not be stored or operated under any bridge.
- Night work, or use of night lighting, should be avoided within the vicinity of the roosting structure(s).
- Exclusionary devices should not be used if bats may be raising young (i.e., during the bat maternity season). If exclusionary devices are used, they should not contain mesh components, as wildlife may become entangled and/or injured. Exclusionary devices should only be used

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Ms. Purvines
El Dorado County
August 22, 2016
Page 11 of 13

following consultation with and approval by the Department, and under the direct guidance of a qualified bat biologist.

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Cont.

3. *Wildlife Hazards:* Certain structures, equipment, and substances used during construction may cause wildlife to become trapped, entangled, injured, or poisoned unless proper preventative measures are taken. The Department recommends the following measures to reduce the potential for harm:

- Structures in which wildlife may become trapped (e.g. open pipes, pits, trenches, etc.) should be tightly covered at the end of each work day. If covering the structure is not possible, an escape ramp should be provided to allow any wildlife that falls in to safely escape.
- Debris piles, construction materials, equipment, and other items that may be used as refugia should be inspected for wildlife at the start of each work day and prior to disturbance. If wildlife is discovered, it should either be moved out of harm's way by a qualified biologist, or allowed to move off of the project site on its own.
- Nets and mesh should be made of loose weave material that is not fused at the intersections of the weave, as nets with welded weaves present an entanglement risk.
- Toxic materials and garbage should be removed from the work site and safely stored or disposed of at the end of each work day.

4-47

4. *Protection of Open Space:* Projects proposed to be constructed adjacent to open space areas may have indirect adverse impacts on wildlife within the open space. To reduce indirect impacts to open space, the Department recommends that the following measures be included in the final EIR:

- If a proposed project has the potential to affect sensitive biological resources (e.g., nesting birds) by increasing ambient noise levels, a qualified biologist should be contracted to implement appropriate avoidance measures, such as sound walls, buffers, and changes in project phasing or timing.
- Landscaping in projects near open space areas should avoid the use of exotic plants, particularly invasive species, to the greatest extent possible to prevent infestation of the adjacent lands. A list of invasive plant species of concern may be found at <http://www.cal-ipc.org/pafl/>.

4-48

Ms. Purvines
El Dorado County
August 22, 2016
Page 12 of 13

Further Coordination

The Department appreciates the opportunity to comment on the Biological Resources Policy Update and Oak Resources Management Plan (SCH No. 2015072031), and requests that the County address the Department's comments and concerns prior to circulating the final EIR. If you should have any questions pertaining to these comments, please contact Gabriele Quillman at (916) 358-2955 or gabriele.quillman@wildlife.ca.gov.

4-49

Sincerely,



Tina Bartlett
Regional Manager

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Ms. Purvines
 El Dorado County
 August 22, 2016
 Page 13 of 13

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Response to Comment Letter 4

**California Department of Fish and Wildlife
Shaundra Cashdollar and Tina Bartlett
August 22, 2016**

4-1 The comment identifies the attached letter as the comments of the California Department of Fish and Wildlife (CDFW).

The comment does not address the content or adequacy of the Draft Environmental Impact Report (EIR) and no response is necessary.

4-2 The comment introduces the comments that follow and notes the role of CDFW as a Trustee Agency for fish and wildlife resources and as a Responsible Agency for the County of El Dorado’s consideration of future discretionary actions.

The comment does not address the content or adequacy of the Draft EIR and no response is necessary. The Draft EIR identifies CDFW as a Trustee Agency for fish and wildlife resources on page 2-4 (Chapter 2, Introduction).

4-3 This comment provides a brief summary of the components of the proposed project.

The comment does not address the content or adequacy of the Draft EIR and no response is necessary.

4-4 The comment introduces the CDFW comments and recommendations on identifying and/or mitigating potential impacts on biological resources that follow.

The comment does not address the content or adequacy of the Draft EIR and no response is necessary.

4-5 The comment lists the plant species collectively referred to in the Draft EIR as the Pine Hill plants.

The comment provides background information for subsequent comments and does not address the adequacy of the Draft EIR; therefore, no response is necessary. On pages 6-4 and 6-43 in Chapter 6 (Biological Resources), the Draft EIR identifies the special-status plants listed in this comment and describes the County’s existing and ongoing efforts to conserve these plants. These plants are also identified in Draft EIR Table 6-3 in Chapter 6 (Biological Resources).

- 4-6** The comment notes that the Draft EIR does not include a separate analysis of impacts to the Pine Hill plants.

As discussed in the Draft EIR on page 6-45 in Chapter 6 (Biological Resources), the proposed project would not change the County's ongoing efforts to coordinate with state and federal agencies for the protection of the Pine Hill plants (or Pine Hill endemics). The County would continue to support the U.S. Bureau of Land Management (BLM) Pine Hill Preserve Manager position, pursuant to the (2015) cooperative agreement between the BLM and the County (Legistar File No. 15-0754). The County would also continue to implement the Ecological Preserve Fee (established by Ordinance No. 4500 and codified as Chapter 130.71 (Ecological Preserve Fee) in Title 130 (Zoning Ordinance) of the County Code), which has been prepared consistent with the U.S. Fish and Wildlife Service's (USFWS's) Gabbro Soil Plants for the Central Sierra Nevada Foothills Recovery Plan (Recovery Plan; USFWS 2002). As evaluated in the Draft EIR, the proposed project included adding the words "where feasible" to Policy 7.4.1.1. Based on questions and concerns raised in public comments on the Draft EIR, this addition has been removed from the proposed General Plan policy updates. The only proposed revision to Policy 7.4.1.1 is to update the reference to the County Code section that contains pine hill preserve mitigation requirements (previously section 17.71 and currently section 130.71, Ecological Preserve Fee), as discussed in Response to Comment 4-9 in this section (Section 3.2, State and Local Agencies).

The project would not affect the County's ongoing efforts to implement the management strategies and tasks identified in the USFWS Recovery Plan and would not alter General Plan directives, nor the mitigation requirements for projects in the Pine Hill mitigation areas defined in the County Code. Therefore, a separate analysis of impacts to the Pine Hill plants is not required.

- 4-7** The comment recommends that the Draft EIR be revised to include a separate analysis of the project's potential direct, indirect, and cumulative impacts on Pine Hill plants and their habitat, noting that the Pine Hill plants and their habitat are a unique and significant aspect of the County's biological resources and that the proposed project would change policies related to these species.

As evaluated in the Draft EIR, the project proposed two modifications to current Policy 7.4.1.1 of the General Plan, which addresses protection of Pine Hill plants. The modifications are to change the County Code reference from 17.71 to 130.71 and to add the words "where feasible." Based on questions and concerns raised in public comments on the Draft EIR, the addition of "where feasible" has been removed from

the proposed General Plan policy updates. As discussed in Response to Comment 4-9 in this section (Section 3.2, State and Local Agencies), the change in the County Code section reference is necessary to match the current policy to the recent County Code reorganization. No changes were made to the text of the County Code at that time, other than changes in numbering.

The proposed General Plan Biological Resources Policy Update would also add language to current Policies 7.4.1.2, 7.4.1.3, and 7.4.1.4 to clarify that the policies apply specifically to the County’s ongoing efforts to implement the Pine Hill Preserve Management Plan. These changes would not alter the County’s requirements related to conservation and preservation requirements for the Pine Hill plants.

- 4-8** The comment notes that proposed revisions to current Policy 7.4.1.1 changes references from County Code Chapter 17.71 to County Code Chapter 130.71 (Ecological Preserve Fee), and also adds the phrase “where feasible” to the requirement that the County establish and manage preserves consistent with the USFWS recovery plan.

The comment provides background information for subsequent comments and does not address the adequacy of the Draft EIR; therefore, no response is necessary.

- 4-9** The comment requests that the EIR identify all differences in wording between Chapter 17.71 and Chapter 130.71 of Title 130 (Zoning Ordinance) of the County Code, and explain what impacts any changes might have on the efficacy of the County’s mitigation program for the Pine Hill plants.

There are no differences in the wording of County Code Chapter 130.71 (Ecological Preserve Fee) compared to the prior Chapter 17.71. The County Board of Supervisors in 2015 recodified the County Ordinance Code such that the Zoning Ordinance, which was previously Title 17 of the Code, is now Title 130. The change in reference from Chapter 17.71 to Chapter 130.71 simply reflects the recodified Ordinance Code, which is not part of this project. No changes to the text of the Ecological Preserve Fee ordinance were made.

- 4-10** The comment disagrees that the addition of the phrase “where feasible” to proposed Policy 7.4.1.1 would have no effect, because “feasible” is not defined, and the existing policy requires consistency with the Recovery Plan.

As stated previously in Response to Comment 4-6 in this section (Section 3.2, State and Local Agencies), based on questions and concerns raised in public comments on the Draft EIR, the addition of “where feasible” has been removed from the proposed

General Plan policy updates. Thus, the project would not change the requirements of Policy 7.4.1.1.

- 4-11** The comment asserts that addition of the phrase “where feasible” relaxes the standards by which the County would protect the Pine Hill plants and recommends that the phrase be removed from proposed Policy 7.4.1.1, or that the Draft EIR be revised to include additional analysis related to this wording change.

As stated previously in Response to Comment 4-6 in this section (Section 3.2, State and Local Agencies), and consistent with this recommendation, the addition of “where feasible” has been removed from the proposed General Plan policy updates. Thus, the project would not change the requirements of Policy 7.4.1.1.

- 4-12** The comment summarizes the two options under County Code Chapter 130.71 for minimizing and mitigating impacts to Pine Hill plants and references the County Code section requirements related to reviewing and updating the Ecological Preserve Fee.

The comment provides background information for subsequent comments; therefore, no response is necessary.

- 4-13** The comment states that the funds collected by the County’s in lieu fee program for Pine Hill plants and their habitat may not be adequate to offset ongoing impacts to these species or their habitat. The comment further states that the fee amount does not appear to have been adjusted since it was established in 1998.

As stated previously in Response to Comment 4-6 in this section (Section 3.2, State and Local Agencies), based on questions and concerns raised in public comments on the Draft EIR, the addition of “where feasible” has been removed from the proposed General Plan policy updates. Thus, the project would not change the requirements of Policy 7.4.1.1. Changes to the Ecological Preserve Fee program are not a part of the currently proposed project and it is not necessary to evaluate the program as part of this EIR. Refer to Master Response 1 in Chapter 2 (Master Responses) in this Final EIR regarding the decisions made by the County Board of Supervisors establishing the County’s objectives for the currently proposed project and defining the project description.

- 4-14** The comment states that projects approved by the County over time have led to a cumulative loss of rare plant habitat and rare plants throughout a significant portion of their limited range. The comment recommends that the in-lieu fee program be reevaluated and the fee adjusted before it would be effective mitigation for project impacts to the Pine Hill plants.

As stated previously in Response to Comment 4-6 in this section (Section 3.2, State and Local Agencies), based on questions and concerns raised in public comments on the Draft EIR, the addition of “where feasible” has been removed from the proposed General Plan policy updates. The project would not change the requirements of Policy 7.4.1.1 or the Ecological Preserve Fee program. Thus, it is not necessary to evaluate the program as part of this EIR.

- 4-15** The comment states that California Environmental Quality Act (CEQA) Guidelines Section 15021 compels public agencies to avoid or minimize environmental damage where feasible. The comment recommends that the County evaluate the General Plan’s ability to avoid and minimize direct and indirect impacts to the Pine Hill plants and their habitat, and revise the policies as necessary to lessen impacts further.

As stated previously in Response to Comment 4-6 in this section (Section 3.2, State and Local Agencies), based on questions and concerns raised in public comments on the Draft EIR, the addition of “where feasible” has been removed from the proposed General Plan policy updates. The project would not change the requirements of Policy 7.4.1.1 or the Ecological Preserve Fee program. Thus, it is not necessary to evaluate the program as part of this EIR.

- 4-16** The comment states that a comprehensive mitigation strategy for unavoidable impacts to the Pine Hill plants should be developed and adopted, and recommends that the EIR include a timeline to accomplish this.

As stated previously in Response to Comment 4-6 in this section (Section 3.2, State and Local Agencies), based on questions and concerns raised in public comments on the Draft EIR, the addition of “where feasible” has been removed from the proposed General Plan policy updates. The project would not change the requirements of Policy 7.4.1.1 or the Ecological Preserve Fee program. Thus, it is not necessary to evaluate the program as part of this EIR. Mitigation requirements identified in County Code Chapter 130.71, consistent with the USFWS’s Gabbro Soil Plants for the Central Sierra Nevada Foothills Recovery Plan (USFWS 2002), Recovery Plan, provides adequate mitigation strategy for impacts to the Pine Hill plants. Refer also to Master Response 1 in Chapter 2 (Master Responses) in this Final EIR regarding the decisions made by the County Board of Supervisors establishing the County’s objectives for the proposed project and defining the proposed project description.

- 4-17** The comment notes that Draft EIR Table 6-5 lists sensitive vegetation communities occurring in El Dorado County, and CDFW considers each of the 52 communities ranked S1–S3 to be imperiled and of high priority for conservation.

The comment provides background information for subsequent comments; therefore, no response is necessary. The Draft EIR also identifies communities ranked S1 to S3 as sensitive habitats, as noted in the text before Table 6-5 on page 6-18 (Chapter 6, Biological Resources).

- 4-18** The comment asserts that the proposal to preserve non-oak woodland upland habitat at a 1:1 mitigation ratio would not adequately offset potential impacts to natural communities designated S3 or rarer.

As shown in Table 6-15 in Chapter 6 (Biological Resources) of the Draft EIR, based on the County's development projections, implementation of the General Plan is expected to result in the loss of 4,792 acres of annual grassland, 681 acres of mixed chaparral, 15 acres of ponderosa pine, and 3 acres of sierra mixed conifer. These land cover types are associated with several different vegetation communities, some of which are designated S3 or rarer. Table 6-5 indicates that none of the vegetation alliances associated with the annual grassland and sierra mixed conifer land cover types are designated S3 or rarer. Further, Table 6-5 shows that the mixed chaparral land cover type can include 13 distinct vegetation alliances, 2 of which are designated S3 or rarer, and the ponderosa pine land cover type can include 4 vegetation alliances, one of which is designated S2.2. The total loss of mixed chaparral and ponderosa pine anticipated to result from land development projected to occur by 2035 is 696 acres, and the total impact to sensitive upland non-oak woodland vegetation alliances would be less than this.

Proposed Policy 7.4.2.8 would require 1:1 mitigation for impacts to any upland non-oak woodland communities. This would include annual grassland, mixed chaparral, ponderosa pine, and sierra mixed conifer. The proposed policy would require greater than 1:1 mitigation for wetlands and riparian communities. A 1:1 mitigation ratio for non-oak upland land cover types, including those designated S3 or rarer, is typical for regional habitat conservation plans in northern California, such as the South Sacramento Habitat Conservation Plan (HCP, in development), the Placer County Conservation Plan (in development), and the Santa Clara Valley HCP (adopted 2012).

At this level of mitigation, some habitat would be lost to development but an equal amount would be preserved in perpetuity. The majority of habitats that would be lost to development are located within the County's Community Regions, which are the areas within the County that currently support and are planned to support the highest density and intensity of land uses. Thus, habitat areas within these regions are subject to disturbance and habitat fragmentation. In contrast, the proposed policies require that preserved habitat must be in contiguous habitat blocks of at least 5 acres. This

would ensure that the habitat and ecosystem value of the preserved habitat is equal to or greater than the habitat value of the habitat lost to development. It is the opinion of the County's expert biologist, Sherri Miller, that considering the amount of habitat loss and the fact that the habitat expected to be lost is or will be adversely affected by habitat fragmentation, the proposed mitigation ratio is adequate to ensure that a sufficient amount of habitat is preserved in a way that retains essential habitat values to support native wildlife and flora within El Dorado County. Ms. Miller's opinion is based on 23 years of experience as a professional biologist and her work on regional conservation plans throughout the state of California. She is currently leading development and analysis of biological resource impacts for the South Sacramento HCP/Aquatic Resources Plan and Yuba Sutter Resource Conservation Plan EIS/EIR. She served as the reviewing botanist for the Natural Community Conservation Plan for the Dessert Renewable Energy Conservation Plan, a plan intended to address habitat impacts and mitigation for renewable energy projects in the California desert (Mojave and Colorado deserts), encompassing parts of six counties. She served as the lead botanist in the preparation of the Western Riverside Multi-Species HCP and in a review capacity for the Tehachapi Uplands Multi-Species HCP in Kern County. In the context of these regional conservation plans, it is Ms. Miller's experience that USFWS and CDFW have determined in project-specific and regional conservation plans that this approach is sufficient to meet federal and state regulatory standards as well as CEQA and National Environmental Policy Act mitigation standards; therefore, the County considers this approach sufficient for this project.

As shown in Table 6-15 in Chapter 6 (Biological Resources) of the Draft EIR, ongoing development is expected to result in impacts to a maximum of 696 acres of non-oak woodland sensitive upland vegetation communities and to avoid impacts to over 31,000 acres of mixed chaparral and over 88,000 acres of ponderosa pine. Thus, a substantial amount of the sensitive vegetation communities would remain unaffected by development. The comment is correct that the proposed project would result in a net reduction in the total amount of habitat in the County. The Draft EIR recognizes that this net habitat loss would result in a significant and unavoidable impact. However, the County's expert biologist has concluded that the extent of retained habitat would be sufficient to ensure that the current range and distribution of special status species would be maintained within the County. Reducing the habitat loss impact to a less than significant level would require avoiding all habitat loss. This would require avoiding disturbance (both direct and indirect effects) to the sensitive vegetation communities within the 696 acres of development within the mixed chaparral and ponderosa pine land cover types. This would require that increased levels of development outside of the Community Regions, which would be

inconsistent with the County's land use goals and plans. Refer to Master Response 1 in Chapter 2 (Master Responses) in this Final EIR regarding the County Board of Supervisors considerations toward balancing competing interests and values in setting the County's General Plan goals and policies.

- 4-19** The comment states that the 1:1 mitigation ratio would allow for a net loss of up to 50% of each vegetation community and recommends that the County adopt a stronger mitigation requirement for vegetation communities ranked S1 to S3, and particularly recommends a no-net-loss standard for these communities.

As discussed in Response to Comment 4-18 in this section (Section 3.2, State and Local Agencies), the proposed 1:1 mitigation ratio for non-oak upland land cover types would be adequate to ensure that the range and distribution of special status species within the County is maintained. Further, this mitigation ratio is typical for regional habitat conservation plans, such as the South Sacramento Habitat Conservation Plan (in development), the Placer County Conservation Plan (in development), and the Santa Clara Valley Habitat Conservation Plan (adopted 2012).

While there would be a net loss in the total amount of each habitat type, the development projections for the County through the year 2035 indicate that less than 696 acres of sensitive upland vegetation communities would be affected. The affected sensitive communities fall within the mixed chaparral and ponderosa pine land cover types. It is not known how much of the 696 acres of these land cover types that would be lost to development support sensitive vegetation communities. Therefore, the specific amount of impact to non-oak upland sensitive vegetation communities is not known. However, there would remain over 33,000 acres of mixed chaparral and 88,000 acres of ponderosa pine land cover types remaining within the County, and a portion of this habitat would be preserved in perpetuity as mitigation for development impacts to these vegetation communities. Under General Plan buildout, far less than 50% of the sensitive vegetation communities are projected to be lost due to future development. Therefore, it is the professional opinion of the County's biological expert that establishing a no-net-loss standard for sensitive vegetation communities is not warranted. Refer also to Master Response 1 in Chapter 2 (Master Responses) in this Final EIR regarding the County Board of Supervisors considerations toward balancing competing interests and values in setting the County's General Plan goals and policies.

- 4-20** The comment states that mitigation for sensitive vegetation communities needs to be in-kind, and that the General Plan should be revised to explicitly state that habitat

mitigation for sensitive vegetation communities would be in-kind. The comment provides an example using the Fremont cottonwood forest vegetation community.

The current General Plan policies and County Code require in-kind mitigation for Pine Hill plant habitat, and under the proposed project, impacts to oak woodlands would also be mitigated on a like-for-like, or in-kind, basis. The proposed project requires that impacts to water, herbaceous wetland, shrub and tree wetlands, or uplands be mitigated with vegetation types that fall within each of those groupings. However, within each of these groupings, the specific vegetation type would not necessarily have to match the type of vegetation impacted. This is intended to maximize flexibility to acquire parcels from willing sellers and to maximize the conservation value of acquired parcels. At the time an impact occurs, the highest-priority areas for conservation may not be the same vegetation type as the one impacted, and the County Board of Supervisors has determined that it is important to retain flexibility to acquire the lands from willing sellers with the most conservation value possible. The conservation value of a site would be defined using various parameters, which may differ according to the vegetation community type. In general the parameters by which conservation value would be determined are those identified in proposed Policy 7.4.2.8, and reflect preference for habitat that is characterized by a high abundance and diversity of native species, intact natural processes, and few roads or other evidence of human disturbances.

In other words, the proposed project would require mitigation for all impacts to all habitat types, and would require that mitigation be within the same habitat grouping as the impact, but would not require that mitigation be of the same vegetation community within a given grouping. It is the opinion of the County's expert biologist that requiring in-kind mitigation is not necessary to ensure the range and distribution of special status species is maintained because most species do not rely exclusively on one particular vegetation community and do not differentiate between similar vegetation communities. For example, a species that occurs within the common whiteleaf manzanita chaparral would find similar habitat values in the Ione manzanita chaparral (these are the two sensitive vegetation communities that occur within the mixed chaparral land cover type). It is noted that Fremont cottonwood forest community mentioned in this comment occurs in the montane riparian land cover type, and, as shown in Table 6-15 in Chapter 6 (Biological Resources) of the Draft EIR, no impacts to this land cover type, and thus to the Fremont cottonwood forest community, are anticipated. The comment does not provide evidence or explain why in-kind mitigation is needed for sensitive vegetation communities and thus does not demonstrate any deficiencies in the EIR.

4-21 The comment notes that CDFW’s California Essential Habitat Connectivity Project identified a corridor stretching from Marble Valley to Sawtooth Ridge as an area of essential habitat connectivity. The comment also recommends that the County map this area as an Important Biological Corridor (IBC), and consider it as such in review and mitigation of future projects in this area.

The California Essential Habitat Connectivity Project states that it is “a decision-support tool to be refined by finer-scale analyses and local linkage designs.” The IBCs were developed as part of preparation of the 2004 General Plan, in which the County established the IBC overlay to provide a greater level of protection to wildlife movement corridor that link PCAs, natural vegetation communities and/or areas having Natural Resource, Open Space, and/or Agricultural base land use designations in the western portion of the County. As part of the current project, the County’s expert biologists reviewed the IBC mapping and selection process and concurred with the recommendations of the technical specialists that the identified IBCs reflect the best scientific data available at the time they were mapped, and that the proposed policies provide the necessary flexibility and prioritization categories of acquisition of preserved lands to ensure that the County’s Biological Resources Mitigation Program will achieve the County’s goals to maintain the current range and distribution of flora and fauna by conserving habitat that supports special status species; conserving aquatic environments, wetlands, and riparian habitat; conserving important habitat for migratory deer herds; and conserving large expanses of native vegetation.

The referenced area from Marble Valley to Sawtooth Ridge was previously considered during this mapping effort and included as an identified “Key Wildlife Crossing Area” in the IBC mapping effort. However, the habitat that it connects is sufficiently degraded, or is designated by the County as a “Community Region,” and it does not connect areas designated as PCAs; therefore, it did not meet the criteria established by PAWTAC and ISAC for identifying IBCs.

Inclusion of this corridor as an IBC would not substantially affect mitigation of impacts under current Policy 7.4.2.9, because wildlife movement in this area is already highly constrained by existing development, as shown in Figure 3.2-1 at the end this section (Section 3.2, State and Local Agencies). While there is undeveloped property present on the south side of U.S. Highway 50 in the area of this potential corridor, there is a limited amount of undeveloped property on the north side of the highway and no meaningful habitat blocks or areas to which this corridor would connect. Thus, it is the opinion of the County’s expert biologists that this corridor does not provide high value for wildlife movement and was appropriately excluded from the County’s mapped IBCs.

- 4-22** The comment notes that the project would revise current Policy 7.4.2.4 to replace the word “manage” with “preserve” with respect to wildlife corridors. The comment generally agrees that active management would not be necessary, but recommends that management may be necessary to remediate after natural disasters or unauthorized use of an area, to remove invasive species, or to remove unauthorized encampments or debris, and recommends that the revised General Plan include a mechanism for as-needed management activities in wildlife corridors.

Management of these areas may be necessary after spills, natural disasters, or other events as noted in the comment. None of those activities are precluded under proposed Policy 7.4.2.4, and they may be required in order to “protect and preserve” the wildlife corridor. Such management would be at the discretion of the park or preserve management, taking into account other management needs and the existing natural state of the wildlife corridor to be protected and preserved. The intent of the policy language change was to clarify that for many of these wildlife movement corridors, active management is not necessary to maintain function for wildlife movement.

- 4-23** The comment notes that CDFW has concerns regarding the completeness of the impact analysis, the adequacy of proposed mitigation measures, and potential impacts to valley oaks.

The comment provides an introduction for subsequent comments; therefore, no response is necessary.

- 4-24** The comment states that the Draft EIR is unclear regarding how oak woodland impacts will be assessed, noting that indirect effects may reduce habitat quality for retained oak woodlands.

As outlined in the ORMP, quantification of oak woodland impacts would be conducted by a Qualified Professional during preparation of an Oak Resources Technical Report, which also requires identification of woodland protection measures and proposed mitigation actions. In addition, project direct and indirect impacts to vegetation communities, including those adjacent to oak woodlands, will be mitigated through the Biological Resources Mitigation Program as set forth in proposed Policy 7.4.2.8. The ORMP defines impacts to oak woodlands as “tree and land clearing associated with land development, including, but not limited to, grading, clearing, or otherwise modifying land for roads, driveways, building pads, landscaping, utility easements, fire-safe clearance and other development activities.” An analysis of indirect effects to the habitat quality of oak woodlands retained on a project site is not specifically required under the ORMP. However, indirect impacts to habitat quality

for on-site retained woodlands are addressed by increased mitigation requirements where impact levels are increased. Under the proposed ORMP, when a project would impact between 50.1% and 75% of the existing on-site woodland, the project would be required to mitigate at a 1.5:1 ratio, and projects that would impact more than 75% of on-site oak woodlands would be required to mitigate at a 2:1 ratio. It is anticipated that at the lower ranges of on-site oak woodland retention, smaller habitat patches would be retained, which would increase edge effects. The increased mitigation ratios required for these projects would result in preservation of larger contiguous oak woodland areas, with fewer edge effects, in perpetuity. As discussed in Master Response 2 in Chapter 2 (Master Responses) in this Final EIR, data available on habitat fragmentation in oak woodlands suggest that a greater number of species would benefit from preservation of large undeveloped areas.

- 4-25** The comment states that certain wildlife species require an oak woodland area measuring 5 acres or more for suitable habitat and suggests that the ORMP be revised such that areas of retained on-site oak woodland that measure less than 5 contiguous acres, that are substantially modified, or that are indirectly substantially impacted, would not be considered retained for the purposes of determining required mitigation.

The proposed ORMP would apply to all development within the County below 4,000 feet above mean sea level, other than the activities covered under the ORMP exemptions. As shown in Table 3-2 below, originally presented in Dudek’s memo to the County Board of Supervisors dated February 17, 2015 (Attachment 11B, Legistar File 12-1203), there is a wide range of parcel sizes within the County. For those parcels that support oak woodland and that are not classified as developed, 4,232 parcels are less than or equal to 5 acres in size while 5,974 parcels are greater than 5 acres.

Table 3-2
Summary of Parcel Sizes with Oak Woodlands in El Dorado County

Parcel Size	Total in County*	Quantity with Oak Woodlands (% of Total)	Quantity with Oak Woodlands and Not Classified as Developed (% of Total)
≤ 1 acre	50,999	8,550 (9.7%)	1,938 (2.2%)
> 1 and ≤ 2 acres	6,806	4,363 (4.9%)	771 (0.9%)
> 2 and ≤ 5 acres	10,318	7,919 (8.9%)	1,523 (1.7%)
> 5 and ≤ 10 acres	8,798	7,488 (8.5%)	1,685 (1.9%)
> 10 and ≤ 40 acres	7,267	5,990 (6.8%)	2,327 (2.6%)
> 40 acres	3,970	2,437 (2.8%)	1,962 (2.2%)
Total	88,158	36,747 (41.7%)	10,206 (11.6%)

* Excludes parcels within the Cities of Placerville and South Lake Tahoe.

For developers of parcels less than 5 acres in size, there would be very limited ability to demonstrate retention of 5 contiguous acres of oak woodland. A requirement that retained areas must provide 5 contiguous acres of oak woodland would therefore result in a disincentive for those property owners to retain woodlands on site, as the retained area would not lessen their mitigation burdens. In allowing on-site retention to reduce mitigation burdens, the County Board of Supervisors has recognized the community's goals for on-site retention of oak resources to preserve the local areas' rural character and aesthetics. Refer to Master Response 1 in Chapter 2 (Master Responses) in this Final EIR regarding the Board of Supervisors' considerations toward balancing competing interests and values in setting the County's General Plan goals and policies. Although the habitat value of these patches retained on site would be less than the value of a contiguous habitat block of 5 acres or greater, as discussed in Master Response 2 in Chapter 2 (Master Responses) in this Final EIR, there is some habitat value that remains in these patches, particularly for those species more tolerant of urban settings and less sensitive to human presence.

The comment also stated that oak woodlands that are substantially modified from their natural state (e.g., via understory vegetation removal, paving, etc.) or otherwise substantially impacted should not be considered retained for the purposes of determining oak woodland impact mitigation ratios. As defined in the ORMP, impacts to oak woodlands include "tree and land clearing associated with land development, including, but not limited to, grading, clearing, or otherwise modifying land for roads, driveways, building pads, landscaping, utility easements, fire-safe clearance and other development activities." Therefore, the modifications to oak woodlands identified by the commenter would be considered impacts and areas subject to these types of disturbance would not counted as retained oak woodlands for the purposes of determining impact mitigation ratios.

- 4-26** The comment states CDFW's opinion that the oak woodland mitigation ratios presented in the ORMP are insufficient to mitigate project-level impacts to a less than significant level. The comment notes that using preservation as the only mitigation option would result in a net loss of oak woodlands and would not add habitat value or area to compensate for the loss of the impacted oak woodlands.

The Draft EIR evaluates the effects associated with loss of oak woodlands in Impact 6-1 and concludes that these impacts would be significant and unavoidable. However, the mitigation ratios identified in the proposed ORMP are sufficient to achieve a substantial reduction in the severity of the impact by ensuring that oak woodland is preserved in perpetuity, with a minimum requirement of preserving at least as much woodland as is lost to development. Mitigation options include replanting and/or

restoration, but do not mandate an amount of planting because planting and restoration efforts must be undertaken only at sites that would be appropriate to support this habitat.

On pages 10-4 and 10-5 in Chapter 10 (Alternatives) of the Draft EIR considered an alternative that would require a no-net-loss standard for oak woodland, and found that the alternative would not be feasible because it would constrain development to the extent that it would prevent the County from fully implementing the General Plan and would be contrary to existing policies regarding focusing development in the Community Regions and Rural Centers. It would require extensive replanting and restoration efforts, particularly when accounting for temporal loss of oak woodland habitat. This would constrain development opportunities in the County because developers would incur substantially greater costs for mitigation and because large areas of land would be dedicated to preservation and restoration, and would therefore no longer be available for development. The Draft EIR also noted that a no-net-loss policy could increase air pollution and greenhouse gas emissions by pushing development into the rural areas of the county, requiring residents to drive longer distances. Refer to Master Response 10 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of the No Net Loss of Woodlands alternatives and its feasibility.

- 4-27** The comment suggests that oak woodland mitigation measures be revised so that some oak woodland creation or restoration be required in addition to preservation, rather than providing an option for creation/restoration to optionally replace up to 50 percent of the preservation requirements.

The oak woodland mitigation alternatives included in the ORMP allow a Qualified Professional to design an oak woodland mitigation program that considers the opportunities and constraints of a specific property and that is consistent with the oak woodland mitigation alternatives outlined in California Public Resources Code (PRC) Section 21083.4. PRC 21083.4 prioritizes conservation by requiring it as a component of an oak woodland mitigation program, either via direct conservation or via conservation fund contributions and by limiting replacement planting to no more than 50 percent of an oak woodland mitigation program. The requirements included in PRC 21083.4 emphasize the importance of oak woodland conservation as an impact mitigation mechanism, which is also reflected in the ORMP's oak woodland mitigation requirements. Refer to Master Response 10 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of the No Net Loss of Woodlands alternatives and its feasibility.

- 4-28** The comment states that, although the Draft EIR concludes that a no-net-loss policy for oak woodlands is infeasible due to cost, no economic analysis is provided to support this conclusion and the Draft EIR does not demonstrate that the proposed mitigation strategy is the best feasible mitigation.

Refer to Master Response 10 in Chapter 2 (Master Responses) in this Final EIR for additional discussion of the No Net Loss of Woodlands alternatives and its feasibility. The Draft EIR determined that this alternative would be infeasible because it would frustrate implementation of the General Plan. Specifically, a no net loss of oak woodlands standard would substantially increase costs for development in areas where oak woodlands are prevalent. As discussed in Response to Comment 4-35 below, the majority of the oak woodland impacts anticipated under the 2035 development scenario would occur within the County's identified Community Regions. As discussed in Master Response 10 and the Draft EIR, the no-net-loss of oak woodlands standard would shift development from the Community Regions and into the County's rural areas. This would conflict with the General Plan goals and strategies to focus development in the Community Regions.

- 4-29** The comment reiterates that CEQA requires that a public agency should not approve a project if there are feasible alternatives or mitigation measures that would substantially lessen any significant environmental effects. The comment states that CDFW recommends that the EIR be revised to provide more analysis of the proposed mitigation ratios and additional ways to strengthen them to reduce cumulative impacts to oak woodlands to a less than significant level.

Refer to Responses to Comments 4-25 through 4-28 in this section (Section 3.2, State and Local Agencies) for discussion of the feasibility and effectiveness of the mitigation strategies suggested by CDFW. As discussed previously, the alternatives and mitigation measures suggested in the CDFW comments either would not be feasible or would not be effective in substantially reducing impacts.

- 4-30** The comment states that the PCAs are geographically distant from the areas that are projected to be developed by 2035, and that this is problematic because it separates the mitigation area from the area of impact and thus is less effective as mitigation.

As discussed in Master Response 2 in Chapter 2 (Master Responses) in this Final EIR and Response to Comment 3-4 in this section (Section 3.2, State and Local Agencies), the County's intent for the biological resources policies is to ensure that the current range and distribution of wildlife in the County is protected. In the opinion of the County's biological experts, it is not necessary for mitigation to occur close to the

area of impact to achieve this intent. Rather, it is important that conservation occurs in the areas with the highest habitat value.

The comment does not explain why mitigation should be proximate to impact and does not recommend a specific maximum distance between impacts and mitigation sites. In other jurisdictions and under other habitat conservation planning efforts, such as those under development or adopted for Placer, Santa Clara, East Contra Costa, and Butte Counties, mitigation is typically allowed to occur anywhere within that jurisdiction or planning area. It is not common or necessary to have proximity requirements. In fact, many conservation planning efforts indicate a goal of keeping preserved lands as far away from impacted areas as possible, to maximize patch size and minimize indirect effects on the habitat and species, consistent with the proposed project (for example Santa Clara Valley Habitat Authority 2012 p 5-10 through 5-13).

Master Response 2 also discusses the establishment of the PCAs, which included selecting only areas that provide a minimum of 500 contiguous acres of oak woodland habitat and are unlikely to be subject to substantial fragmentation under the anticipated 2035 General Plan scenario. Using these criteria, the PCAs were established to identify mitigation areas that would provide the highest habitat value and therefore contribute to the long-term preservation of viable habitat and wildlife populations in the County. Master Response 2 also identifies that the approach and criteria used to identify the PCAs are important for ensuring the long-term feasibility of managing areas that are conserved under the proposed ORMP. Finally, Master Response 2 notes that the County's conservation program is predicated on the idea that all lands must be acquired from willing sellers. Because the County cannot predict where such acquisition will occur, although mitigation is encouraged to occur within the PCAs, the program offers substantial flexibility to acquire conservation lands throughout the County and it is expected that mitigation will occur in a variety of locations.

- 4-31** The comment states that the PCAs are located in areas where development is not projected, and thus the ORMP places conservation priority on areas that are less likely to be developed in the foreseeable future. Further, the comment states that development in the County is projected to be heaviest around the U.S. Highway 50 (Highway 50) corridor and that by not designating any PCAs within or near this corridor, the project ensures that mitigation would occur outside the area of highest impact, resulting in prioritization of mitigation in areas where it is least urgently needed.

As summarized previously in Response to Comment 4-30 in this section (Section 3.2, State and Local Agencies) and discussed in detail in Master Response 2 in Chapter 2 (Master Responses) in this Final EIR, the PCAs were established to identify

mitigation areas that would provide the highest habitat value and contribute to the long-term preservation of viable habitat and wildlife populations in the County. Response to Comment 4-30 also explains that the proposed project is consistent with most conservation planning efforts, which include a goal of keeping preserved lands far away from impacted areas to maximize patch size and minimize indirect effects on the habitat and species. These areas would generally be located away from the area of highest impact. Although the comment is correct that development is not anticipated in these areas, development is not precluded under the current General Plan and zoning designations. Thus, there is some potential for development to occur in these areas under existing conditions, which could result in fragmentation of large, existing blocks of oak woodland habitat. However, when PCA lands are selected for mitigation under the proposed project, they would be conserved in perpetuity, which would ensure the long-term protection of large blocks of oak woodland habitat in the County. Thus, the proposed project provides meaningful and effective mitigation for loss of oak woodland.

The comment is correct that most of the oak woodland loss would occur in areas that are near Highway 50. As shown in Figure 5-1 in Chapter 5 (Land Use and Planning) of the Draft EIR, much of the oak woodlands surrounding Highway 50 are on parcels that are already classified by the County as being developed, which means that some level of development currently exists (e.g., houses or other structures) and thus the habitat value of the woodland is already somewhat lessened. As shown in Figure 5-1, although considered developed, many parcels still support oak woodlands. Although development along the Highway 50 corridor by 2035 is expected to impact various-sized patches of oak woodland habitat, a substantial amount of oak woodland would remain in this area.

The comment is correct that the PCAs consist of lands with less likelihood to be developed under the current General Plan and zoning designations. This is considered desirable because large blocks of intact oak woodland habitat would be conserved and therefore less likely to be adversely affected by habitat fragmentation and edge effects. It is noted that while oak woodland conservation is encouraged in the PCAs, the proposed policies and ORMP allow for conservation to occur elsewhere. Additionally, the County's IBCs and the proposed requirements to maintain the existing wildlife movement and habitat values within the IBCs would provide protection for the habitat values of land throughout the County and provide for connections between the PCAs in the southern and northern portions of the County.

- 4-32** The comment states that habitat preservation as mitigation is more effective and valuable when the preservation occurs in areas that are more likely to be developed.

The comment states that CDFW recommends that the ORMP be revised to include mitigation that specifically addresses impacts around the Highway 50 corridor.

As previously discussed in Responses to Comments 4-30 and 4-31 in this section (Section 3.2, State and Local Agencies), there is no substantial evidence to support the assertion that habitat preservation is more effective when it occurs in areas that are more likely to be developed. Rather, the County's biological resource experts recommend that mitigation should occur where the greatest habitat values are present and will be retained in the long-term. Additionally, the County's biological resource experts find that the value of conservation as a viable alternative to mitigate impacts to oak woodlands is not predicated on the assumption that the conserved oak woodlands would otherwise be impacted. Rather, the value of conservation of oak woodlands located in the PCAs is based on their size and connectivity, which enhances their ability to maximize patch size, minimize edge effect, and minimize indirect effects on woodland-dependent species. As stated in the ORMP, conservation of oak woodlands in the PCAs is intended to offset the effects of habitat loss and fragmentation resulting from development under the General Plan.

Refer to Master Response 2 in Chapter 2 (Master Responses) in this Final EIR regarding the establishment of the PCAs, the value of prioritizing mitigation efforts within the PCAs, and the extent of impacts around the Highway 50 corridor. As indicated in Draft EIR Figure 5-1 (Chapter 5, Land Use and Planning), most impacts would occur within a maximum distance of approximately 3 miles from Highway 50. However, a substantial amount of oak woodland would remain in this area.

Although the proposed project encourages conservation to occur within the PCAs, it also allows conservation to occur anywhere within the County. The proposed project is consistent with other regional habitat conservation and resource management planning, which typically allows conservation to occur anywhere within the planning area and concentrates conservation areas away from the areas of impact to reduce habitat fragmentation and edge effects. Further, as discussed in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR, the proposed project is consistent with the El Dorado County General Plan, which directs that the majority of land use development should occur within the Community Regions and Rural Centers to protect the community character and aesthetics of the County's rural areas..

- 4-33** The comment provides references indicating that valley oak woodlands are a rare natural community that are disproportionately vulnerable to construction impacts and that valley oak trees are not regenerating at rates sufficient to replace themselves. The comment notes that most surviving stands of vally oak woodland are between 100

and 300 year old, that valley oak woodland habitats typically occur on relatively flat, fertile sites, and this habitat type has been impacted by development and agricultural land conversion.

Section 6.3 (Impacts) of Chapter 6 (Biological Resources) of the Draft EIR addresses potential impacts to valley oak woodlands and addresses the sensitive habitat classification for valley oak woodlands. Section 6.4 (Mitigation Measures) of the same chapter includes Mitigation Measure BIO-2, which removes exemptions for impacts to valley oak trees and valley oak woodlands. Thus, all new land development and all new or expanded agricultural activities that impact valley oak woodland would be required to mitigate for those impacts by preserving valley oak woodland at a minimum 1:1 ratio and/or undertaking some amount of replacement planting on an appropriate site.

- 4-34** The comment summarizes the impacts to valley oak woodlands presented in the Draft EIR and states that without replacement planting requirements, impacted valley oak woodlands may never be replaced. The comment notes a potential loss of nearly 65% of the County's valley oak woodlands.

Although the comment is correct that the impact analysis in the Draft EIR shows a potential for up to 65% of the County's valley oak woodlands to be impacted by future development and other activities, with implementation of Mitigation Measure BIO-2, which does not allow for mitigation exemptions (e.g., fire safe project areas, agricultural lands) to be applied to valley oak woodlands, the actual amount of impact to valley oak woodlands would be reduced. This response reflects corrected acreage totals for land cover type impacts, as discussed in Master Response 9 in Chapter 2 (Master Responses) in this Final EIR. Based on the calculated impact totals presented in the Draft EIR, up to 2,458 acres of valley oak woodland (out of 3,970 total acres in the County) may be subject to impact and would require mitigation at a minimum ratio of 1:1. However, use of the 1:1 mitigation ratio would require that at least 50% of the valley oak woodland on a project site be retained. In contrast, the Draft EIR calculation of the valley oak woodland impacts assumes that no on-site retention would occur.

If all valley oak woodland impacts were mitigated at a 1:1 ratio using conservation as the selected mitigation alternative, 50% of the valley oak woodland on each project site would be retained on site, resulting in impacts to a maximum of 1,229 acres of valley oak woodland, and off-site conservation of an equal amount of this habitat. If no on-site retention occurs, mitigation would be required at a 2:1 ratio. This would ensure that no more than 33% of the valley oak woodland in the County could be impacted, as there would be 2 acres conserved for every 1 acre impacted.

The comment is correct that the proposed ORMP would not require any replanting or restoration, and thus it is possible that none would occur. However, as shown earlier, the mitigation ratios would ensure that a substantial portion of the valley oak woodland in the County would be retained (on site) or conserved (off site). Additionally, as discussed previously in Response to Comment 4-26 in this section (Section 3.2, State and Local Agencies), the proposed project does not mandate an amount of planting because planting and restoration efforts must be undertaken only at sites that would be appropriate to support this habitat. As noted in Response 4-27 previously discussed, the proposed project is consistent with state law in that CEQA Section 21083.4 allows replanting as a component of mitigation but does not require a specific amount of replanting.

- 4-35** The comment states CDFW’s recommendation that County adopt a no-net-loss, or close to no-net-loss, policy for valley oak woodland and that the EIR include a feasibility analysis outlining how the revised mitigation was formulated.

As discussed in Response to Comment 4-34 above, the proposed mitigation ratios would ensure that a substantial portion of the valley oak woodland in the County would be retained (on site) or conserved (off site). Refer to Master Response 10 in Chapter 2 (Master Responses) in this Final EIR for discussion of the No Net Loss of Woodlands alternative and its feasibility. As discussed in Master Response 10, replacement planting of oak woodland habitats involves a temporal loss and unavoidable change in the nature of the habitat. Comment 4-33 states that most valley oak woodland stands are between 100 and 300 years old. Replacement planting would create new valley oak woodland stands which would have much different characteristics and habitat values than the existing stands. Thus, a no net loss standard for oak woodlands is not feasible.

The revised oak woodland mitigation approach presented in the ORMP, including that for valley oak woodland, originated with the mitigation approaches included in current General Plan Policy 7.4.4.4, the County’s Interim Interpretive Guidelines for current General Plan Policy 7.4.4.4 (Option A), and the County’s 2008 Oak Woodland Management Plan. The oak woodland mitigation approach was then revised over the course of 10 public hearings, during which the Board of Supervisors was provided with detailed information about oak woodlands in the County, current regulations (state and local), and current mitigation approaches in similar jurisdictions that are balancing land development and resource protection. During these 10 hearings, the Board of Supervisors also heard comments from agencies, organizations, and members of the public. Memoranda summarizing the content of

individual meetings and documenting Board of Supervisors direction are included in Appendix E of the Draft EIR.

As discussed, a no-net-loss standard for oak woodlands would not be feasible, because it would constrain development and prevent the County from fully implementing the General Plan and would be contrary to existing policies regarding focusing development in the Community Regions. A more detailed analysis of where oak woodland impacts are projected to occur was conducted, with the results presented in Tables 3-3 and 3-4, representing impacts occurring by 2025 and 2035. This response reflects corrected acreage totals for land cover type impacts, as discussed in Master Response 9 in Chapter 2 (Master Responses) in this Final EIR.

Table 3-3
Impacted Oak Woodland Acreage Converted under the
2025 General Plan Buildout Scenario, by Community Region

Oak Woodland Type	Impacted Oak Woodland Acreage, by Community Region					
	<i>Cameron Park</i>	<i>Diamond Springs</i>	<i>El Dorado Hills</i>	<i>Unincorporated Placerville</i>	<i>Shingle Springs</i>	<i>Non-Community Region</i>
Blue oak woodland	128	123	548	23	183	478
Blue oak–foothill pine	166	410	202	82	329	248
Coastal oak woodland	0	0	0	0	0	0
Montane hardwood	4	225	7	102	41	1
Montane hardwood–conifer	0	0	0	7	0	1
Valley oak woodland	13	78	0	14	70	19
Total	311	835	757	228	623	746

Table 3-4
Impacted Oak Woodland Acreage Converted under the
2035 General Plan Buildout Scenario, by Community Region

Oak Woodland Type	Impacted Oak Woodland Acreage, by Community Region*					
	<i>Cameron Park</i>	<i>Diamond Springs</i>	<i>El Dorado Hills</i>	<i>Unincorporated Placerville</i>	<i>Shingle Springs</i>	<i>Non-Community Region</i>
Blue oak woodland	172	141	935	37	218	521
Blue oak–foothill pine	249	430	341	149	535	305
Coastal oak woodland	0	0	0	0	0	0
Montane hardwood	25	239	7	149	138	9
Montane hardwood–conifer	0	0	0	25	0	1
Valley oak woodland	13	79	2	18	85	24
Total	460	890	1,285	378	976	860

* Includes land cover type conversion projected to occur through 2025.

As presented in Tables 3-3 and 3-4 above, valley oak woodland impacts are projected to occur largely in Community Regions. Nearly 90% of potential impacts to valley oak woodland occur in Community Regions by 2035. Significant opportunities for conserving existing valley oak woodlands therefore exist outside of Community Regions. Based on the California Department of Forestry and Fire Protection's Fire and Resources Assessment Program oak woodland mapping data and the County's Community Region boundaries, 3,507 acres of valley oak woodland occur outside of Community Regions. Factoring in projected impacts (222 acres by 2035), 3,285 acres of existing valley oak woodlands outside of Community Regions could be available for conservation under the mitigation program outlined in the ORMP.

- 4-36** The comment offers CDFW's opinion that the Single Family Lot, County Road Project, and Affordable Housing Exemptions cumulatively contribute to the project's overall oak woodland impacts and should not be considered less than significant. The comment also provides a recommendation that the EIR include a discussion of the feasibility and appropriateness of adopting mitigation for these impacts.

The Draft EIR concludes that the exemptions referenced in this comment would have a less than significant impact when considered individually. This is due to the limited extent of oak woodland impacts that could result from any one of these exemptions and the degree of existing habitat fragmentation that would be associated with projects that fall under the County Road Project exemption. However, the Draft EIR also concludes that taken as a whole, the proposed project would have significant and unavoidable impacts on the County's biological resources. As stated on page 6-51 and shown in Table 6-7 in Chapter 6 (Biological Resources) of the Draft EIR, the Single Family Lot exemption could allow for a maximum of 290 acres of oak woodland impacts that would not require mitigation. This is a conservative estimate because it does not account for undevelopable portions of a property (e.g., setback areas, slope restrictions) or retention of oaks on individual lots for aesthetic, shading, or screening purposes. The potential loss of 290 acres of oak woodlands would not substantially lessen the range and distribution of oak woodlands and the flora and fauna that rely upon these habitats within the County.

As described on pages 6-55 and 6-56 and shown in Table 6-10 in Chapter 6 (Biological Resources) of the Draft EIR, the County Road Project exemption would result in impacts to 312 acres of oak woodland that would not require mitigation. As noted on page 6-56, "This exemption is specific to widening and realignment of existing County roads. Since these are existing roads, oak woodlands habitats are already fragmented by the linear nature of the roads. Widening or realignment would

incrementally increase oak woodlands loss but would not increase fragmentation.” The potential loss of 312 acres of oak woodlands that are adjacent to existing roads would not substantially lessen the range and distribution of oak woodlands and the flora and fauna that rely upon these habitats within the County.

As described on pages 6-56 and 6-57 in Chapter 6 (Biological Resources) of the Draft EIR, the Affordable Housing Exemption would exempt affordable housing projects that are located in an urbanized area or sphere of influence from mitigation for oak woodland losses, and would reduce the mitigation requirements for affordable housing projects not located in these areas. The GIS analysis completed for the Draft EIR identified a total of 196 acres of oak woodlands occurring on currently undeveloped lands that are designated for multi-family development. The potential loss of 196 acres of oak woodland would not substantially lessen the range and distribution of oak woodlands and the flora and fauna that rely upon these habitats within the County.

In addition, the County’s Housing Element identifies a need for development of 3,948 units of affordable housing within the County’s west slope area (west of the Tahoe Basin). The County’s Housing Element includes Implementation Measure HO-2013-7, in support of Policies HO-1.3 and HO-1.18, which states that the County will “develop and adopt an incentive-based Oak Woodland Management policy, consistent with the Conservation and Open Space Element of the General Plan, to include mitigation fee waivers for in-fill developments providing dwelling units affordable to very low- to moderate-income households.” Thus, the Affordable Housing Exemption is necessary to ensure consistency with the General Plan.

The County’s proposed oak woodland mitigation exemptions were selected to ensure that the proposed ORMP would be consistent with the County’s overarching General Plan goals, as discussed in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR. Eliminating these exemptions would result in increased costs for development and infrastructure, discouraging development from occurring within the County’s Community Regions. It is noted that the exemptions do not apply to the County’s proposed requirements for mitigation of the loss of Heritage Oak trees. Further, as required by Mitigation Measure BIO-2, the exemptions do not apply to the loss of individual valley oak trees or impacts to valley oak woodland.

- 4-37** The comment states that it is unclear how adopting mitigation for oak resources that may be impacted as a result of agricultural activities would conflict with the General Plan goals and objectives. The comment notes that the General Plan Goals, Objectives, and Policies “make no mention of mitigation, much less discourage or

prohibit its use”; the comment asserts that requiring mitigation would therefore not inherently contradict the General Plan.

The Draft EIR does not state that requiring mitigation is prohibited by the General Plan. Rather, the EIR concludes that requiring oak woodland mitigation for agricultural activities would impede the County’s attainment of the General Plan objectives and goals related to preservation of the County’s agricultural economy and community character. As discussed in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR, ensuring the long-term viability of the County’s agricultural economy is a key goal for maintaining the County’s community character and aesthetics. Also refer to Master Response 5 in Chapter 2 (Master Responses) in this Final EIR regarding the Agricultural Activities Exemption.

- 4-38** The comment states that it is unclear why the Agricultural Activities Exemption includes all activities conducted on lands covered by Williamson Act or Farmland Security Zone contracts, noting that because these contracts are non-permanent, individuals could use this exemption to remove oak woodlands prior to expiration of the agricultural preservation contracts in anticipation of future site development. The comment notes that there are 16,936 acres of oak woodlands within lands covered by Williamson Act and Farmland Security Zone contracts in El Dorado County.

As discussed previously in this section (Section 3.2, State and Local Agencies) and in Master Response 1 in Chapter 2 (Master Responses) in this Final EIR, ensuring the long-term viability of the County’s agricultural economy is a critical overarching goal of the County’s General Plan. Although Williamson Act and Farmland Security Zone contracts are non-permanent, they require a formal cancellation process, which in the case of a Williamson Act contract requires 9 years and in the case of a Farmland Security Zone requires 19 years. Further, when a property is removed from a Williamson Act Contract or a Farmland Security Zone contract, the property would retain its agricultural zoning unless the Board of Supervisors approves rezoning the property, hearings for which would be publicly noticed. Although it is possible that a landowner could remove oak woodlands prior to cancellation of these contracts in order to improve development opportunities in the future, assuming such activities under this EIR would be speculative and not reasonably foreseeable. Additionally, as discussed in Master Response 5 in Chapter 2 (Master Responses) in this Final EIR, the agricultural exemption is currently in place under existing General Plan policy and the Interim Interpretive Guidelines for current General Plan Policy 7.4.4.4. Review of the County’s agricultural reports for the past several years has shown that there has not been a substantial increase in agricultural activities nor has there been a substantial reduction in the extent of oak woodland in the County. Thus, while the

agricultural exemption could allow for up to 132,821 acres of oak woodland impact, there is no substantial evidence that significant impacts would result from continued availability of the agricultural exemption.

Although the Williamson Act is a state program, the activities and land uses allowable on land that is under a Williamson Act contract are defined by the local land use agency—in this case, the County of El Dorado. The County’s General Plan and County Code define requirements and criteria for establishing agricultural preserves, including Ordinance No. 188-2002, which sets minimum annual gross income standards for agricultural properties to be eligible for this designation. This indicates that property under these types of contracts is in active agricultural use. Additionally, as stated in the Zoning Ordinance (Title 130 of the County Code), “the use of the property shall be limited during the term of the [Williamson Act] contract to agricultural and compatible uses.” (Section 130.40.060.C.2, Agricultural Preserves and Zones: Contracts, Criteria and Regulations, Preserve Standards, Use and Structures). Again, assuming that landowners would remove oak woodlands in preparation for future land development when the lands are in active agricultural use would be speculative and not reasonably foreseeable.

- 4-39** The comment notes that proposed Policy 7.4.2.8 would require project applicants to prepare a Biological Resources Report to determine the presence of special-status resources that may be affected by a discretionary project.

The comment provides background information for subsequent comments and does not address the accuracy or adequacy of the Draft EIR; therefore, no response is necessary. It is noted that proposed Policy 7.4.2.8 requires that Biological Resources Reports be prepared by a Qualified Professional.

- 4-40** The comment recommends that vegetation communities should be assessed and mapped in Biological Resources Reports at the alliance level, following the Manual of California Vegetation, Second Edition (Sawyer et al. 2009), and should include adjoining off-site areas that could be indirectly affected.

Proposed Policy 7.4.2.8 requires that vegetation communities be mapped based on the List of Vegetation Alliances and Associations (CDFG 2010) and subsequent updates. Thus, the proposed project is consistent with this recommendation. A recommendation that proposed Policy 7.4.2.8(C) be revised to clarify that indirect effects to vegetation and special-status plants should include adjoining off-site areas, to the extent that access to those areas is allowed, has been forwarded to the County Board of Supervisors. This recommended change to proposed Policy 7.4.2.8(C) would have no

effect on the environmental analysis. This comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the proposed project.

- 4-41** The comment states that current Policy 7.3.3.1 should be revised to also require project applicants to delineate on-site wetland features that are subject to California Fish and Game Code Section 1602, noting that this mapping could avoid potential project delays if CDFW requires additional delineations to be prepared during or after the CEQA process.

The referenced current Policy 7.3.3.1 is not proposed to be changed as part of the project. However, mitigation for impacts to wetlands subject to CDFW would be required regardless of County policy; thus, the mapping and permitting discussed in this comment would still occur. This comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the proposed project.

- 4-42** The comment provides recommendations for how species-specific surveys required as part of the Biological Resources Report should be conducted.

A recommendation that proposed Policy 7.4.2.8(C) be revised to note that any species surveys shall conform to current recommended practices of CDFW or USFWS at the time of the survey has been forwarded to the Board of Supervisors. This recommended change to proposed Policy 7.4.2.8(C) would have no effect on the environmental analysis. This comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the proposed project.

- 4-43** The comment notes that focused surveys for animal or plant species have limited validity, and if a project is delayed an applicant should plan to conduct updated surveys.

Refer to Response to Comment 4-42 above. A recommendation for a revision to proposed Policy 7.4.2.8 has been forwarded to the Board of Supervisors to note that any species surveys shall conform to current recommended practices of CDFW or USFWS at the time of the survey. This includes the duration of validity for any focused surveys.

- 4-44** This comment introduces several avoidance and minimization measures that CDFW recommends be incorporated into the County General Plan.

This comment provides introductory text and does not address the accuracy or adequacy of the Draft EIR; thus, no response is required.

- 4-45** This comment provides recommended avoidance and minimization measures to reduce impacts to nesting birds.

A recommendation has been forwarded to the Board of Supervisors that proposed Policy 7.4.2.8(C) be revised to note that recommendations for pre-construction surveys and avoidance/protection measures for nesting birds must be included in the site-specific biological resources technical report for each project. This recommended change to proposed Policy 7.4.2.8(C) would have no effect on the environmental analysis. This comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the proposed project.

It is noted that the measure recommended in this comment is typically applied to specific development projects. The proposed project does not include any land development, vegetation clearing, or earthmoving activities and thus does not have the potential to result in direct impacts to nesting birds. The proposed General Plan policies identify the County's overall approach to managing biological resources but do not prescribe specific management practices, survey protocols, or mitigation measures that may be applied at the individual project level. These recommendations would be presented in the Biological Resources Report prepared by a project applicant's biologist or other Qualified Professional and reviewed and verified by the County as part of the review process for each individual project.

- 4-46** This comment provides recommended avoidance and minimization measures to reduce impacts to bats.

A recommendation has been forwarded to the Board of Supervisors that proposed Policy 7.4.2.8(C) be revised to note that recommendations for pre-construction surveys and avoidance/protection measures for bats must be included in the site-specific biological resources technical report for each project. This recommended change to proposed Policy 7.4.2.8(C) would have no effect on the environmental analysis. This comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the proposed project.

As described previously in Response to Comment 4-45, the proposed project does not include any land development, vegetation clearing, or earthmoving activities and thus does not have the potential to result in direct impacts to bats. Where an individual project would have a potential impact to bats, the appropriate avoidance and minimization measures would be presented in the Biological Resources Report prepared by a project applicant's biologist or other Qualified Professional

and reviewed and verified by the County as part of the review process for each individual project.

- 4-47** This comment provides recommended avoidance and minimization measures to reduce impacts related to entrapment, entanglement, injury, or poisoning of wildlife.

A recommendation has been forwarded to the Board of Supervisors that proposed Policy 7.4.2.8(C) be revised to note that recommendations for avoidance and minimization measures to reduce impacts related to entrapment, entanglement, injury, or poisoning of wildlife must be included in the site-specific biological resources technical report for each project. This recommended change to proposed Policy 7.4.2.8(C) would have no effect on the environmental analysis. This comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the proposed project.

As described previously in Response to Comment 4-45, the proposed project does not include any land development, vegetation clearing, or earthmoving activities and thus does not have the potential to result in direct impacts to wildlife. Where an individual project would have potential impacts related to entrapment, entanglement, injury, or poisoning of wildlife, the appropriate avoidance and minimization measures would be presented in the Biological Resources Report prepared by a project applicant's biologist or other Qualified Professional and reviewed and verified by the County as part of the review process for each individual project.

- 4-48** This comment provides recommended avoidance and minimization measures to reduce indirect impacts to wildlife in open space adjacent to project areas.

A recommendation has been forwarded to the Board of Supervisors that proposed Policy 7.4.2.8(C) be revised to note that recommendations for avoidance and minimization measures to reduce indirect impacts to wildlife in open space adjacent to project areas must be included in the site-specific biological resources technical report for each project. This recommended change to proposed Policy 7.4.2.8(C) would have no effect on the environmental analysis. This comment, along with all comments on the Draft EIR, will be considered by the Board of Supervisors in their deliberations on the proposed project.

As described previously in Response to Comment 4-45, the proposed project does not include any land development, vegetation clearing, or earthmoving activities and thus does not have the potential to result in activities occurring adjacent to open space areas and indirectly affecting wildlife. Where an individual project would have potential impacts related to indirect effects on wildlife within adjacent open space

areas, the appropriate avoidance and minimization measures would be presented in the Biological Resources Report prepared by a project applicant's biologist or other Qualified Professional and reviewed and verified by the County as part of the review process for each individual project.

- 4-49** This comment provides contact information for the CDFW staff member who could respond to any questions about comments included in this comment letter.

This comment does not address the accuracy or adequacy of the Draft EIR; therefore, no response is required. This comment, along with all comments on the Draft EIR, will be considered by the County Board of Supervisors in their deliberations on the proposed project.

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Comment Letter 5



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX
DIRECTOR

August 16, 2016

Shawna Purvines
El Dorado County
2850 Fairlane Court
Placerville, CA 95667

Subject: Biological Resources Policy Update, Oak Resources Management Plan and Ordinance
SCH#: 2015072031

Dear Shawna Purvines:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on August 15, 2016, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

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PLANNING DEPARTMENT
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1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

**Document Details Report
State Clearinghouse Data Base**

SCH# 2015072031
Project Title Biological Resources Policy Update, Oak Resources Management Plan and Ordinance
Lead Agency El Dorado County

Type EIR Draft EIR
Description El Dorado County proposes to amend several General Plan objectives, policies, and implementation measures addressing biological resources and to adopt an Oak Resources Management Plan and Oak Resources Conservation Ordinance.

Lead Agency Contact
Name Shawna Purvines
Agency El Dorado County
Phone 530 621 5362 **Fax**
email
Address 2850 Fairlane Court
City Placerville **State** CA **Zip** 95667

Project Location
County El Dorado
City
Region
Lat / Long
Cross Streets
Parcel No.
Township **Range** **Section** **Base**

Proximity to:
Highways
Airports
Railways
Waterways
Schools
Land Use Various - project would alter General Plan policies that apply country-wide and adopt an Oak Resources Management Plan that would apply to all lands within the County at or below 4,000 feet in elevation.

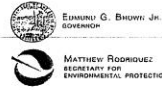
Project Issues Aesthetic/Visual; Agricultural Land; Biological Resources; Forest Land/Fire Hazard; Vegetation; Wetland/Riparian; Landuse; Cumulative Effects; Other Issues

Reviewing Agencies Resources Agency; Department of Fish and Wildlife, Region 2; Cal Fire; Department of Parks and Recreation; Department of Water Resources; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 3 S; State Water Resources Control Board, Division of Water Quality; Regional Water Quality Control Bd., Region 5 (Sacramento); Regional Water Quality Control Bd., Region 6 (So Lake Tahoe); Native American Heritage Commission; Public Utilities Commission

Date Received 06/30/2016 **Start of Review** 06/30/2016 **End of Review** 08/15/2016

5-2

Note: Blanks in data fields result from insufficient information provided by lead agency.



Central Valley Regional Water Quality Control Board

29 July 2016

Governor's Office of Planning & Research

clear
08/15/16E

AUG 01 2016

Shawna Purvines
El Dorado County
2850 Fairlane Court
Placerville, CA 95667

STATE CLEARINGHOUSE

CERTIFIED MAIL

91 7199 9991 7035 8422 2591

COMMENTS TO REQUEST FOR REVIEW FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, EL DORADO COUNTY BIOLOGICAL RESOURCES POLICY UPDATE, OAK RESOURCES MANAGEMENT PLAN AND ORDINANCE PROJECT, SCH# 2015072031, EL DORADO COUNTY

Pursuant to the State Clearinghouse's 30 June 2016 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Draft Environment Impact Report* for the El Dorado County Biological Resources Policy Update, Oak Resources Management Plan and Ordinance Project, located in El Dorado County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

I. Regulatory Setting

Basin Plan

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan

KARL E. LONGLEY SCD, P.E., CHAIR | PAMELA C. CREEDON P.E., BCCE, EXECUTIVE OFFICER

11020 Sun Center Drive #200, Rancho Cordova, CA 95670 | www.waterboards.ca.gov/centralvalley

♻️ RECYCLED PAPER

5-2
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El Dorado County Biological Resources - 2 -
Policy Update, Oak Resources Management
Plan and Ordinance Project
El Dorado County

29 July 2016

amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues.

For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:
http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/.

Antidegradation Considerations

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Policy is available on page IV-15.01 at:
http://www.waterboards.ca.gov/centralvalleywater_issues/basin_plans/sacsjr.pdf

In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

II. Permitting Requirements

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to

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restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.



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El Dorado County Biological Resources - 4 -
Policy Update, Oak Resources Management
Plan and Ordinance Project
El Dorado County

29 July 2016

United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements – Discharges to Waters of the State

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml.

Dewatering Permit

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website at:



5-2
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El Dorado County Biological Resources - 5 -
Policy Update, Oak Resources Management
Plan and Ordinance Project
El Dorado County

29 July 2016

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2013-0145_res.pdf

Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program. There are two options to comply:

1. **Obtain Coverage Under a Coalition Group.** Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/app_approval/index.shtml; or contact water board staff at (916) 464-4611 or via email at IrrLands@waterboards.ca.gov.
2. **Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100.** Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$1,084 + \$6.70/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.

Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be

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EI Dorado County Biological Resources - 6 -
Policy Update, Oak Resources Management
Plan and Ordinance Project
EI Dorado County

29 July 2016

covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf

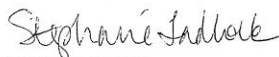
For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf

NPDES Permit

If the proposed project discharges waste that could affect the quality of the waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit.

For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/help/business_help/permit3.shtml

If you have questions regarding these comments, please contact me at (916) 464-4644 or Stephanie.Tadlock@waterboards.ca.gov.



Stephanie Tadlock
Environmental Scientist

cc: State Clearinghouse unit, Governor's Office of Planning and Research, Sacramento

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Response to Comment Letter 5

Governor's Office of Planning and Research, State Clearinghouse

Scott Morgan

August 17, 2016

- 5-1** This comment includes the State Clearinghouse cover letter noting that the State Clearinghouse submitted the Draft Environmental Impact Report (EIR) to selected state agencies for review, and received and attached comments from the Central Valley Regional Water Quality Control Board (CV RWQCB).

The attached letter from the CV RWQCB was submitted directly to El Dorado County (the County) and is included in this section (Section 3.2, State and Local Agencies) of this Final EIR as State and Local Agency Comment Letter 2. This comment does not address the accuracy or adequacy of the Draft EIR; therefore, no further response is required.

- 5-2** This comment presents the letter sent to the State Clearinghouse from the CV RWQCB in response to the Draft EIR. It states the policies and permit requirements that apply to individual development projects within the Central Valley region.

All of the comments submitted by the CV RWQCB have been responded to in the Responses to Comment Letter 2 in this section (Section 3.2, State and Local Agencies) of this Final EIR. Briefly, as described in the Initial Study and in Chapter 2 (Introduction) of the Draft EIR, the proposed project involves amendments to biological resources policies contained in the County's General Plan and adoption of an Oak Resource Management Plan. The proposed project does not include new construction or land uses that would adversely affect storm drainage, change hydrologic conditions, or locate people in areas with a risk of flooding. Thus, none of the regulations or permit requirements identified in the CV RWQCB comment letter are applicable to the currently proposed project.

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